► **Skype ( www.skype.com )**

Skype is my default for all phone calls. It allows you to call landlines and mobile phones across the globe for an average of 2–5 cents per minute, or connect with other Skype users worldwide for free. For about 40 euros per year, you can get a U.S. number with your home area code and receive calls that forward to a foreign cell phone. This makes your travel invisible. Lounge on the beach in Rio and answer calls to your “office” in California. Nice. Skype Chat, which comes with the service, is also perfect for sharing sensitive log-in and password information with others, as it’s encrypted.

►**Vonage (www.vonage.com)** and **Ooma (www.ooma.com)**

Vonage offers a small adapter for a monthly fee that connects your broadband modem to a normal phone. Take it on your travels and set it up in your apartment to receive calls to a U.S. number. Ooma has no monthly fees and doesn’t require a landline, but it offers similar hardware you can connect to broadband for a local U.S. number anywhere in the world.

►**VoIPBuster (www.voipbuster.com)** and **RebTel (www.rebtel.com)**

Both VoIPBuster and RebTel can provide “alias” numbers. Enter a friend’s overseas number on their sites, and both will give you a local number in your area code that will forward to your friend. VoIPBuster also acts as a cheaper Skype with free calls to more than 20 countries.

### International Multi-Band and GSM-Compatible Phones

► **My World Phone ( www.myworldphone.com )**

I’m partial to Nokia phones. Ensure whichever phone you purchase is “unlocked”—that the SIM card can be swapped out in different countries with different providers.

► **World Electronics USA ( www.worldelectronicsusa.com )**

Good explanation of which GSM frequencies and “bands” function in which countries, which will determine which phone you purchase for travel (and perhaps home).

### Tools for Off-the-Beaten Path

► **Satellite Phones ( www.satphonestore.com )**

If you will be in the mountains of Nepal or on a remote island and want the peace of mind (or headache) of having a phone nearby, these phones work via satellite instead of towers. Iridium has been recommended for widest reception (pole to pole), with GlobalStar in second place (three continents). Rent or purchase.

► **Pocket-size Solar Panels ( www.solio.com )**

Satellite phones and other small electronics are of little use (skipping stones, perhaps?) if their batteries die. Solio is about the size of two packs of cards and fans out into small solar panels. I was surprised to find that it charged my cell phone in less than 15 minutes—more than twice as fast as a wall outlet. Adapters are available for almost anything.

**What to Do Once You Get There—Career Experiments and More**

►***Verge Magazine*** **(see Restricted Reading appendix)**

► **Meet Up ( www.meetup.com )**

Search by city and activity to find people who share similar interests all over the world.

► **Become a Travel Writer ( www.writtenroad.com )**

Get paid to travel the world and record your thoughts? This is a dream job for millions. Get the inside scoop on the travel publishing world from veteran Jen Leo, author of *Sand in My Bra and Other Misadventures: Funny Women Write from the Road*. This blog was a *Frommer's Budget Travel* Top Choice and also features great practical articles about low-tech travel and going gadgetless.

► **Teach Engrish ( www.eslcafe.com )**

Dave's ESL Café is one of the oldest and most useful resources for teachers, would-be teachers, and learners of English. Features discussion boards and "teachers wanted" job postings worldwide.

► **Turn Your Brain into Play-Doh ( www.jiwire.com )**

Travel the world so you can instant message (IM) with your friends in the U.S. This site lists more than 150,000 hotspots where you can feed your information OCD. Be ashamed if this becomes your default activity. If you're bored, just remember—it's your fault. I've been there, so I'm not preaching. It happens to the best of us from time to time, but get more creative.

► **Test a New Career Part- or Full-Time: Working Overseas ( www.workingoverseas.com )**

This encyclopedia is an exhaustive menu of options for the globally minded, compiled and updated by

Jean-Marc Hachey, former international careers editor of *Transitions Abroad* magazine.

► **World Wide Opportunities on Organic Farms ( www.wwoof.com )**

Learn and then teach sustainable organic farming techniques in dozens of countries, including Turkey, New Zealand, Norway, and French Polynesia.

## Chat and E-mail in a Language You Don't Know

► **Google Chat Bots (http://bit.ly/imbot)**

Use this to chat in real time using almost any language. Instant message (IM) directly from your Gmail e-mail account with anyone in the world.

►**Nice Translator (www.nicetranslator.com)** and **Free Translation (www.freetranslation.com)**

Translate text from English into a dozen languages and vice versa. Surprisingly accurate, though the lost-in-translation 10–20% can get you in trouble. Nice Translator is faster and can be used on the iPhone.

## Become Fluent in Record Time

### *Language Addicts and Accelerated Learning*

For all things language related, from detailed how-to articles (how to reactivate forgotten languages, memorize 1,000 words per week, master tones, etc.) to mnemonics and the best electronic shortcuts, click on "language" at www.fourhourblog.com. Learning languages is an addiction of mine and a skill I have taken apart and reassembled to be faster. It is possible to become conversationally fluent in any language in 3–6 months.

### *Find Language Exchange Partners and Materials*

► **LiveMocha ( www.livemocha.com ),**

EduFire (www.edufire.com), and

Smart.fm (http://smart.fm/)

I particularly like their BrainSpeed learning game.

► **About.com ( www.about.com )**

Some of the more popular languages have excellent tutorials on About.com:

**http://italian.about.com**

http://spanish.about.com
http://german.about.com
http://french.about.com

68. The dollar figures in this chapter are all from a period immediately following President Bush's reelection in 2004, which correlated to the worst dollar exchange rates of the last 20 years.

69. I refer, of course, to the amazing bike-riding opportunities and famous pastries.

70. Coined by Joel Stein of the *LA Times*.

71. By all means, go ahead and take a post-office celebratory trip and go nuts for a few weeks. I know I did. Rock on. Ibiza and glow sticks here I come. Have some absinthe and drink lots of water. Following that, sit down and plan an introspective mini-retirement.

72. Muses are low maintenance but often expensive in one or both of two tactical areas: manufacturing and advertising. Shop for providers of both that are willing to accept credit cards as payment, and negotiate this up front if necessary by saying, "Rather than trying to negotiate you down on pricing, I just ask that you accept payment by credit card. If you can do that, we'll choose you over Competitor X." This is yet another example of a "firm offer," and not a question, that puts you in a stronger negotiating position. For a detailed explanation of how I multiply points for travel using concepts like "piggybacking" and "recycling," search for both terms on www.fourhourblog.com.

73. To see a video of how I pack to travel the world with less than 10 pounds, click on "travel" at www.fourhourblog.com.

74. Founder of www.nileproject.com.

75. http://www.usc.edu/hsc/dental/opfs/SC/indexSC.html.

76. Brazilian shantytowns. See the movie *City of God (Cidade de Deus)* to get a taste of how fun these are.

77. This is a serious step and should not be taken with those you do not trust. In this case, it helps because your accountant can then sign tax documents or checks in your name instead of consuming hours and days of your time with faxes, scanners, and expensive international FedEx'ing of documents.

78. There are also services like www.earthclassmail.com, which will receive, scan, and e-mail all of your non-junk mail to you as PDFs.

79. This would be used if you leave your computer at home or in someone else's home while traveling. This step can be skipped if you bring your computer, but that is like a recovering heroin addict bringing a bag of opium to rehab. Don't tempt yourself to kill time instead of rediscovering it.

80. "Unlocked" means that it is recharged with prepaid cards instead of being on a monthly payment plan with a single carrier such as O2 or Vodafone. This also means that the same phone can be used with carriers in other countries (assuming the frequency is the same) with a simple switch of the SIM memory card for $10–30 U.S. in most cases. Some U.S.-compatible quad-band phones can use SIM cards.

## ⑮

# Filling the Void

# ► ADDING LIFE AFTER SUBTRACTING WORK

> To be engrossed by something outside ourselves is a powerful antidote for the rational mind, the mind that so frequently has its head up its own ass.
>
> —ANNE LAMOTT, *Bird by Bird*

> There is not enough time to do all the nothing we want to do.
>
> —BILL WATTERSON, creator of the Calvin and Hobbes cartoon strip

**KING'S CROSS , LONDON**

I stumbled into the deli across the cobblestone street and ordered a prosciutto sandwich. It was 10:33 A.M. now, the fifth time I'd checked the time, and the twentieth time I'd asked myself, "What the &%$# am I going to do today?"

The best answer I had come up with so far was: get a sandwich.

Thirty minutes earlier, I had woken up without an alarm clock for the first time in four years, fresh off arriving from JFK the night before. I had soooo been looking forward to it: awakening to musical birdsong outside, sitting up in bed with a smile, smelling the aroma of freshly brewed coffee, and stretching out overhead like a cat in the shade of a Spanish villa. Magnificent. It turned out more like this: bolt upright as if blasted with a foghorn, grab clock, curse, jump out of bed in underwear to check e-mail, remember that I was forbidden to do so, curse again, look for my host and former classmate, realize that he was off to work like the rest of the world, and proceed to have a panic attack.

I spent the rest of the day in a haze, wandering from museum to botanical garden to museum as if on rinse and repeat, avoiding Internet cafés with some vague sense of guilt. I needed a to-do list to feel productive and so put down things like "eat dinner."

This was going to be a lot harder than I had thought.

## Postpartum Depression: It's Normal

> Man is so made that he can only find relaxation from one kind of labor by taking up another.
>
> —ANATOLE FRANCE, author of *The Crime of Sylvestre Bonnard*

### I've Got More Money and Time Than I Ever Dreamed Possible … Why Am I Depressed?

It's a good question with a good answer. Just be glad you're figuring this out now and not at the end of life! The retired and ultrarich are often unfulfilled and neurotic for the same reason: too much idle time.

But wait a second … Isn't more time what we're after? Isn't that what this book is all about? No, not at all. Too much free time is no more than fertilizer for self-doubt and assorted mental tail-chasing. Subtracting the bad does not create the good. It leaves a vacuum. Decreasing income-driven work isn't the end goal. Living more—and becoming more—is.

In the beginning, the external fantasies will be enough, and there is nothing wrong with this. I cannot overemphasize the importance of this period. Go nuts and live your dreams. This is not superficial or selfish. It is critical to stop repressing yourself and get out of the postponement habit.

Let's suppose you decide to dip your toe in dreams like relocating to the Caribbean for island-hopping or taking a safari in the Serengeti. It will be wonderful and unforgettable, and you should do it. There will come a time, however—be it three weeks or three years later—when you won't be able to drink another piña colada or photograph another damn red-assed baboon. Self-criticism and existential panic attacks start around this time.

### But This Is What I Always Wanted! How Can I Be Bored?!

Don't freak out and fuel the fire. This is normal among all high-performers who downshift after working hard for a long time. The smarter and more goal-oriented you are, the tougher these growing pains will be. Learning to replace the perception of time famine with appreciation of time abundance is like going from triple espressos to decaf.

But there's more! Retirees get depressed for a second reason, and you will too: social isolation.

Offices are good for some things: free bad coffee and complaining thereof, gossip and commiserating, stupid video clips via e-mail with even stupider comments, and meetings that accomplish nothing but kill a few hours with a few laughs. The job itself might be a dead end, but it's the web of human interactions—the social environment—that keeps us there. Once liberated, this automatic tribal unit disappears, which makes the voices in your head louder.

Don't be afraid of the existential or social challenges. Freedom is like a new sport. In the beginning, the sheer newness of it is exciting enough to keep things interesting at all times. Once you have learned the basics, though, it becomes clear that to be even a half-decent player requires some serious practice.

Don't fret. The greatest rewards are to come, and you're 10 feet from the finish line.

## Frustrations and Doubts: You're Not Alone

> People say that what we are seeking is a meaning for life. I don't think this is what we're really seeking. I think what we're seeking is an experience of being alive.
>
> —JOSEPH CAMPBELL, *The Power of Myth*

Once you eliminate the 9–5 and the rubber hits the road, it's not all roses and white-sand bliss, though much of it can be. Without the distraction of deadlines and co-workers, the big questions (such as "What does it all mean?") become harder to fend off for a later time. In a sea of infinite options, decisions also become harder—What the hell should I do with my life? It's like senior year in college all over again.

Like all innovators ahead of the curve, you will have frightening moments of doubt. Once past the kid-in-a-candy-store phase, the comparative impulse will creep in. The rest of the world will continue with its 9–5 grind, and you'll begin to question your decision to step off the treadmill. Common doubts and self-flagellation include the following:

1. Am I really doing this to be more free and lead a better life, or am I just lazy?

2. Did I quit the rat race because it's bad, or just because I couldn't hack it? Did I just cop out?
3. Is this as good as it gets? Perhaps I was better off when I was following orders and ignorant of the possibilities. It was easier at least.
4. Am I really successful or just kidding myself?
5. Have I lowered my standards to make myself a winner? Are my friends, who are now making twice as much as three years ago, really on the right track?
6. Why am I not happy? I can do anything and I'm still not happy. Do I even deserve it?

Most of this can be overcome as soon as we recognize it for what it is: outdated comparisons using the more-is-better and money-as-success mind-sets that got us into trouble to begin with. Even so, there is a more profound observation to be made.

These doubts invade the mind when nothing else fills it. Think of a time when you felt 100% alive and undistracted—in the zone. Chances are that it was when you were completely focused in the moment on something external: someone or something else. Sports and sex are two great examples. Lacking an external focus, the mind turns inward on itself and creates problems to solve, even if the problems are undefined or unimportant. If you find a focus, an ambitious goal that seems impossible and forces you to grow,[81] these doubts disappear.

In the process of searching for a new focus, it is almost inevitable that the "big" questions will creep in. There is pressure from pseudo-philosophers everywhere to cast aside the impertinent and answer the eternal. Two popular examples are "What is the meaning of life?" and "What is the point of it all?"

There are many more, ranging from the introspective to the ontological, but I have one answer for almost all of them—I don't answer them at all.

I'm no nihilist. In fact, I've spent more than a decade investigating the mind and concept of meaning, a quest that has taken me from the neuroscience laboratories of top universities to the halls of religious institutions worldwide. The conclusion after it all is surprising.

I am 100% convinced that most big questions we feel compelled to face—handed down through centuries of overthinking and mistranslation—use terms so undefined as to make attempting to answer them a complete waste of time.[82] This isn't depressing. It's liberating.

Consider the question of questions: What is the meaning of life?

If pressed, I have but one response: It is the characteristic state or condition of a living organism. "But that's just a definition," the questioner will retort, "that's not what I mean at all." What do you mean, then? Until the question is clear—each term in it defined—there is no point in answering it. The "meaning" of "life" question is unanswerable without further elaboration.

Before spending time on a stress-inducing question, big or otherwise, ensure that the answer is "yes" to the following two questions:

1. Have I decided on a single meaning for each term in this question?
2. Can an answer to this question be acted upon to improve things?

"What is the meaning of life?" fails the first and thus the second. Questions about things beyond your sphere of influence like "What if the train is late tomorrow?" fail the second and should thus be ignored. These are not worthwhile questions. **If you can't define it or act upon it, forget it**. If you take just this point from this book, it will put you in the top 1% of performers in the world and keep most philosophical distress out of your life.

Sharpening your logical and practical mental toolbox is *not* being an atheist or unspiritual. It's not being crass and it's not being superficial. It's being smart and putting your effort where it can make the biggest difference for yourself and others.

## The Point of It All: Drumroll, Please

> What man actually needs is not a tensionless state but rather the striving and struggling for a worthwhile goal, a freely chosen task.
>
> —VIKTOR E. FRANKL, Holocaust survivor; author of *Man's Search for Meaning*

I believe that life exists to be enjoyed and that the most important thing is to feel good about yourself.

Each person will have his or her own vehicles for both, and those vehicles will change over time. For some, the answer will be working with orphans, and for others, it will be composing music. I have a personal answer to both—to love, be loved, and never stop learning—but I don't expect that to be universal.

Some criticize a focus on self-love and enjoyment as selfish or hedonistic, but it's neither. Enjoying life and helping others—or feeling good about yourself and increasing the greater good—are no more mutually exclusive than being agnostic and leading a moral life. One does not preclude the other. Let's assume we agree on this. It still leaves the question, "What can I do with my time to enjoy life and feel good about myself?"

I can't offer a single answer that will fit all people, but, based on the dozens of fulfilled **NR** I've interviewed, there are two components that are fundamental: continual learning and service.

## Learning Unlimited: Sharpening the Saw

> Americans who travel abroad for the first time are often shocked to discover that, despite all the progress that has been made in the last 30 years, many foreign people still speak in foreign languages.
>
> —DAVE BARRY

To live is to learn. I see no other option. This is why I've felt compelled to quit or be fired from jobs within the first six months or so. The learning curve flattens out and I get bored.

Though you can upgrade your brain domestically, traveling and relocating provides unique conditions that make progress much faster. The different surroundings act as a counterpoint and mirror for your own prejudices, making weaknesses that much easier to fix. I rarely travel somewhere without deciding first how I'll obsess on a specific skill. Here are a few examples:

- ► **Connemara, Ireland:** Gaelic Irish, Irish flute, and hurling, the fastest field sport in the world (imagine a mix of lacrosse and rugby played with axe handles)

- ► **Rio de Janeiro, Brazil:** Brazilian Portuguese and Brazilian jujitsu
- ► **Berlin, Germany:** German and locking (a form of upright breakdancing)

I tend to focus on language acquisition and one kinesthetic skill, sometimes finding the latter after landing overseas. The most successful serial vagabonds tend to blend the mental and the physical. Notice that I often transport a skill I practice domestically—martial arts—to other countries where they are also practiced. Instant social life and camaraderie. It need not be a competitive sport—it could be hiking, chess, or almost anything that keeps your nose out of a textbook and you out of your apartment. Sports just happen to be excellent for avoiding foreign-language stage fright and developing lasting friendships while still sounding like Tarzan.

Language learning deserves special mention. It is, bar none, the best thing you can do to hone clear thinking.

Quite aside from the fact that it is impossible to understand a culture without understanding its language, acquiring a new language makes you aware of your own language: your own thoughts. The benefits of becoming fluent in a foreign tongue are as underestimated as the difficulty is overestimated. Thousands of theoretical linguists will disagree, but I *know* from research and personal experimentation with more than a dozen languages that (1) adults can learn languages much faster than children[83] when constant 9–5 work is removed and that (2) it is possible to become conversationally fluent in any language in six months or less. At four hours per day, six months can be whittled down to less than three months. It is beyond the scope of this book to explain applied linguistics and the 80/20 of language learning, but resources and complete how-to guides can be found under "language" at www.fourhourblog.com. I learned six languages after failing Spanish in high school, and you can do the same with the right tools.

Gain a language and you gain a second lens through which to question and understand the world. Cursing at people when you go home is fun, too.

Don't miss the chance to double your life experience.

## Service for the Right Reasons: To Save the Whales, or Kill Them and Feed the Children?

> Morality is simply the attitude we adopt toward people we personally dislike.
>
> —OSCAR WILDE

One would expect me to mention service in this chapter, and here it is. Like all before it, the twist is a bit different. Service to me is simple: doing something that improves life besides your own. This is not the same as philanthropy. Philanthropy is the altruistic concern for the well-being of mankind—human life. Human life has long been focused on the exclusion of the environment and the rest of the food chain, hence our current race to imminent extinction. Serves us right. The world does not exist solely for the betterment and multiplication of mankind.

Before I start chaining myself to trees and saving the dart frogs, though, I should take my own advice. Do not become a cause snob.

How can you help starving children in Africa when there are starving children in Los Angeles? How can you save the whales when homeless people are freezing to death? How does doing volunteer research on coral destruction help those people who need help now?

Children, please. Everything out there needs help, so don't get baited into "my cause can beat up your cause" arguments with no right answer. There are no qualitative or quantitative comparisons that make sense. The truth is this: Those thousands of lives you save could contribute to a famine that kills millions, or that one bush in Bolivia that you protect could hold the cure for cancer. The downstream effects are unknown. Do your best and hope for the best. If you're improving the world—however you define that—consider your job well done.

Service isn't limited to saving lives or the environment either. It can also improve life. If you are a musician and put a smile on the faces of thousands or millions, I view that as service. If you are a mentor and change the life of one child for the better, the world has been improved. Improving the quality of life in the world is in no fashion inferior to adding more lives.

Service is an attitude.

Find the cause or vehicle that interests you most and make no apologies.

## ► Q&A: QUESTIONS AND ACTIONS

> Adults are always asking kids what they want to be when they grow up because they are looking for ideas.
>
> —PAULA POUNDSTONE

> The miracle is not to walk on water. The miracle is to walk on the green earth, dwelling deeply in the present moment and feeling truly alive.
>
> —THICH NHAT HANH

But I can't just travel, learn languages, or fight for one cause for the rest of my life! Of course you can't. That's not my suggestion at all. These are just good "life hubs"—starting points that lead to opportunities and experiences that otherwise wouldn't be found.

There is no right answer to the question "What should I do with my life?" Forget "should" altogether. The next step—and that's all it is—is pursuing something, it matters little what, that seems fun or rewarding. Don't be in a rush to jump into a full-time long-term commitment. Take time to find something that calls to you, not just the first acceptable form of surrogate work. That calling will, in turn, lead you to something else.

Here is a good sequence for getting started that dozens of **NR** have used with success.

1. **Revisit ground zero: Do nothing**.

Before we can escape the goblins of the mind, we need to face them. Principal among them is speed addiction. It is hard to recalibrate your internal clock without taking a break from constant overstimulation. Travel and the impulse to see a million things can exacerbate this.

Slowing down doesn't mean accomplishing less; it means cutting out counterproductive distractions and the *perception* of being rushed. Consider attending a short silence retreat of 3–7 days during which all media and speaking is prohibited.

Learn to turn down the static of the mind so you can appreciate more before doing more:

► **The Art of Living Foundation (Course II)—International—( www.artofliving.org )**

► **Spirit Rock Meditation Center in California ( http://www.spiritrock.org )**

► **Kripalu Center for Yoga and Health in Massachusetts ( http://www.kripalu.org )**

► **Sky Lake Lodge in New York ( http://www.sky-lake.org )**

2. **Make an anonymous donation to the service organization of your choice**.
This helps to get the juices flowing and disassociate feeling good about service with getting credit for it. It feels even better when it's pure. Here are some good sites to get started:

►**Charity Navigator (www.charitynavigator.org)**
This independent service ranks more than 5,000 charities using criteria you select. Create a personalized page of favorites and compare them side by side, all free of charge.

►**Firstgiving (www.firstgiving.com)**
Firstgiving.com allows you to create an online fund-raising page. Donations can be made through your personal URL. I have used Firstgiving in coordination with a nonprofit called Room to Read to build schools in both Nepal and Vietnam, with more countries pending: www.firstgiving.com/timferriss and www.firstgiving.com/timferriss2. If you specifically want to help animals, for example, you can click on a related link and access websites for hundreds of different animal charities, and then decide which one you want to donate to. The UK version of the website is http://www.justgiving.com.

►**Network for Good (www.networkforgood.org)**
Visitors to this website will find links to charities in need of donations as well as opportunities to do volunteer work. They can also set up an automated credit card donation online.

3. **Take a learning mini-retirement in combination with local volunteering**.
Take a mini-retirement—six months or more if possible—to focus on learning and serving. The longer duration will permit a language focus, which in turn enables more meaningful interaction and contribution through volunteering.

For the duration of this trip, note self-criticisms and negative self-talk in a journal. Whenever upset or anxious, ask "why" at least three times and put the answers down on paper. Describing these doubts in writing reduces their impact twofold. First, it's often the ambiguous nature of self-doubt that hurts most. Defining and exploring it in writing—just as with forcing colleagues to e-mail—demands clarity of thought, after which most concerns are found to be baseless. Second, recording these concerns seems to somehow remove them from your head.

But where to go and what to do? There is no one right answer to either. Use the following questions and resources to brainstorm:

What makes you most angry about the state of the world?

What are you most afraid of for the next generation, whether you have children or not?

What makes you happiest in your life? How can you help others have the same?

There is no need to limit yourself to one location. Remember Robin, who traveled through South America for a year with her husband and seven-year-old son? The three of them spent one to two months doing volunteer work in each location, including building wheelchairs in Banos, Ecuador, rehabilitating exotic animals in the Bolivian rain forest, and shepherding leather-back sea turtles in Suriname.

How about doing archaeological excavation in Jordan or tsunami relief on the islands of Thailand? These are just two of the dozens of foreign relocation and volunteering case studies in each issue of *Verge Magazine* (www.vergemagazine.com). Reader-tested resources include:

Hands on Disaster Response: www.hodr.org

Project Hope: www.projecthope.org

Relief International: www.ri.org

International Relief Teams: www.irteams.org

Airline Ambassadors International: www.airlineamb.org

Ambassadors for Children:

www.ambassadorsforchildren.org

Relief Riders International:

www.reliefridersinternational.com

Habitat for Humanity Global Village Program:

www.habitat.org

Planeta: Global Listings for Practical Ecotourism:

www.planeta.com

4. **Revisit and reset dreamlines**.

Following the mini-retirement, revisit the dreamlines set in **Definition** and reset them as needed. The following questions will help:

What are you good at?

What could you be the best at?

What makes you happy?

What excites you?

What makes you feel accomplished and good about yourself?

What are you most proud of having accomplished in your life? Can you repeat this or further develop it?

What do you enjoy sharing or experiencing with other people?

5. **Based on the outcomes of steps 1–4, consider testing new part- or full-time vocations**. Full-time work isn't bad if it's what you'd rather be doing. This is where we distinguish "work" from a "vocation."

If you have created a muse or cut your hours down to next to nothing, consider testing a part-time or full-time vocation: a true calling or dream occupation. This is what I did with this book. I can now tell people I'm a writer rather than giving them the two-hour drug dealer explanation. What did you dream of being when you were a kid? Perhaps it's time to sign up for Space Camp or intern as an assistant to a marine biologist.

Recapturing the excitement of childhood isn't impossible. In fact, it's required. There are no more chains—or excuses—to hold you back.

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[81]. Abraham Maslow, the American psychologist famous for proposing "Mas-low's Hierarchy of Needs," would term this goal a "peak experience."

[82]. There is a place for koans and rhetorical meditative questions, but these tools are optional and outside the scope of this book. Most questions without answers are just poorly worded.

[83]. Ellen Bialystok and Kenji Hakuta, *In Other Words: The Science and Psychology of Second-Language Acquisition* (Basic Books, 1995).

## 16

# The Top 13 New Rich Mistakes

> If you don't make mistakes, you're not working on hard enough problems. And that's a big mistake.
>
> —FRANK WILCZEK, 2004 Nobel Prize winner in physics

> Ho imparato che niente e impossibile, e anche che quasi niente e facile … (I've learned that nothing is impossible, and that almost nothing is easy …)
>
> —ARTICOLO 31 (Italian rap group), "Un Urlo"

Mistake are the name of the game in lifestyle design. It requires fighting impulse after impulse from the old world of retirement-based life deferral. Here are the slipups you will make. Don't get frustrated. It's all part of the process.

1. **Losing sight of dreams and falling into work for work's sake (W4W)** Please reread the introduction and next chapter of this book whenever you feel yourself falling into this trap. Everyone does it, but many get stuck and never get out.

2. **Micromanaging and e-mailing to fill time** Set the responsibilities, problem scenarios and rules, and limits of autonomous decision-making—then stop, for the sanity of everyone involved.

3. **Handling problems your outsourcers or co-workers can handle**

4. **Helping outsourcers or co-workers with the same problem more than once, or with noncrisis problems** Give them if-then rules for solving all but the largest problems. Give them the freedom to act without your input, set the limits in writing, and then emphasize in writing that you will not respond to help with problems that are covered by these rules. In my particular case, all outsourcers have at their discretion the ability to fix any problem that will cost less than $400. At the end of each month or quarter, depending on the outsourcer, I review how their decisions have affected profit and adjust the rules accordingly, often adding new rules based on their good decisions and creative solutions.

5. **Chasing customers, particularly unqualified or international prospects, when you have sufficient cash flow to finance your nonfinancial pursuits**

6. **Answering e-mail that will not result in a sale or that can be answered by a FAQ or auto-responder** For a good example of an auto-responder that directs people to the appropriate information and outsourcers, e-mailinfo@fourhourworkweek.com.

7. **Working where you live, sleep, or should relax** Separate your environments—designate a single space for work and solely work—or you will never be able to escape it.[84]

8. **Not performing a thorough 80/20 analysis every two to four weeks for your business and personal life**

9. **Striving for endless perfection rather than great or simply good enough, whether in your personal or professional life** Recognize that this is often just another W4W excuse. Most endeavors are like learning to speak a foreign language: to be correct 95% of the time requires six months of concentrated effort, whereas to be correct 98% of the time requires 20–30 years. Focus on great for a few things and good enough for the rest. Perfection is a good ideal and direction to have, but recognize it for what it is: an impossible destination.

10. **Blowing minutiae and small problems out of proportion as an excuse to work**

11. **Making non-time-sensitive issues urgent in order to justify work** How many times do I have to say it? Focus on life outside of your bank accounts, as scary as that void can be in the initial stages. If you cannot find meaning in your life, it is your responsibility as a human being to create it, whether that is fulfilling dreams or finding work that gives you purpose and self-worth—ideally a combination of both.

12. **Viewing one product, job, or project as the end-all and be-all of your existence** Life is too short to waste, but it is also too long to be a pessimist or nihilist. Whatever you're doing now is just a stepping-stone to the next project or adventure. Any rut you get into is one you can get yourself out of. Doubts are no more than a signal for action of some type. When in doubt or overwhelmed, take a break and 80/20 both business and personal activities and relationships.

13. **Ignoring the social rewards of life** Surround yourself with smiling, positive people who have absolutely nothing to do with work. Create your muses alone if you must, but do not live your life alone. Happiness shared in the form of friendships and love is happiness multiplied.

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[84] To avoid the living room and coffee shop as offices, consider using a social "co-working" space on occasion: http://coworking.pbwiki.com.

# The Last Chapter

# ► AN E-MAIL YOU NEED TO READ

There is nothing the busy man is less busied with than living; there is nothing harder to learn.

—SENECA

For the past 33 years, I have looked in the mirror every morning and asked myself: "If today were the last day of my life, would I want to do what I am about to do today?" And whenever the answer has been "No" for too many days in a row, I know I need to change something … almost everything—all external expectations, all pride, all fear of embarrassment or failure—these things just fall away in the face of death, leaving only what is truly important. Remembering that you are going to die is the best way I know to avoid the trap of thinking you have something to lose.

—STEVE JOBS, college dropout and CEO of Apple Computer, Stanford University Commencement, 2005[85]

If you're confused about life, you're not alone. There are almost seven billion of us. This isn't a problem, of course, once you realize that life is neither a problem to be solved nor a game to be won.

If you are too intent on making the pieces of a nonexistent puzzle fit, you miss out on all the real fun. The heaviness of success-chasing can be replaced with a serendipitous lightness when you recognize that the only rules and limits are those we set for ourselves.

So be bold and don't worry about what people think. They don't do it that often anyway.

Two years ago, I was forwarded the following poem—originally written by child psychologist David L. Weatherford—by a close friend. He quit his own deferred-life plan after reading it, and I hope you will do the same. Here it is.

**SLOW DANCE**

*Have you ever watched kids*
*On a merry-go-round?*

*Or listened to the rain*
*Slapping on the ground?*

*Ever followed a butterfly's erratic flight?*
*Or gazed at the sun into the fading night?*

*You better slow down.*
*Don't dance so fast.*

*Time is short.*
*The music won't last.*

*Do you run through each day*
*On the fly?*

*When you ask: How are you?*
*Do you hear the reply?*

*When the day is done,*
*do you lie in your bed*

*With the next hundred chores*
*Running through your head?*

*You'd better slow down.*
*Don't dance so fast.*

*Time is short.*
*The music won't last.*

*Ever told your child,*
*We'll do it tomorrow?*

*And in your haste,*
*Not see his sorrow?*

*Ever lost touch,*
*Let a good friendship die*

*Cause you never had time*
*To call and say, "Hi"?*

*You'd better slow down.*
*Don't dance so fast.*

*Time is short.*
*The music won't last.*

*When you run so fast to get somewhere*
*You miss half the fun of getting there.*

*When you worry and hurry through your day,*
*It is like an unopened gift thrown away.*

*Life is not a race.*
*Do take it slower.*

*Hear the music*
*Before the song is over.*

85. http://news-service.stanford.edu/news/2005/june15/jobs-061505.html.

# ► THE BEST OF THE BLOG

## The Art of Letting Bad Things Happen

### [AFTER 3 WEEKS OFF OF THE BLOG]

Long time no see! I just landed back in California from a long overdue mini-retirement through London, Scotland, Sardinia, the Slovak Republic, Austria, Amsterdam, and Japan. Some unpleasant surprises awaited me when I checked in on the evil e-mail inbox. Why? I let them happen.

I always do.

Here are just a few of the goodies that awaited me this time:

- ► One of our fulfillment companies had been shut down due to the CEO's death, causing a 20%+ loss in monthly orders and requiring an emergency shift of all web design and order processing
- ► Missed radio and magazine appearances and upset would-be interviewers
- ► More than a dozen lost joint-venture partnership opportunities

It's not that I go out of my way to irritate people—not at all—but I recognize one critical fact: Oftentimes, in order to do the big things, you have to let the small bad things happen. This is a skill we want to cultivate.

What did I get in exchange for temporarily putting on blinders and taking a few glancing blows?

- ► I followed the Rugby World Cup in Europe and watched the New Zealand All Blacks live, a dream I've had for the last five years.

- ► I shot every gun I've ever dreamed of firing since brainwashing myself with *Commando* . Bless the Slovak Republic and their paramilitaries.

- ► I filmed a television series pilot in Japan, a lifelong dream and the most fun I've had in months, if not years.

- ► I met with my Japanese publisher, Seishisha, and had media interviews in Tokyo, where the 4HWW is now #1 in several of the largest chains.

- ► I took a complete 10-day media fast and felt like I'd had a two-year vacation from computers.

- ► I attended the Tokyo International Film Festival and hung out with one of my heroes, the producer of the *Planet Earth* television series.

Once you realize that you can turn off the noise without the world ending, you're liberated in a way that few people ever know.

Just remember: If you don't have attention, you don't have time. Did I have time to check e-mail and voicemail? Sure. It might take 10 minutes. Did I have the attention to risk fishing for crises in those 10 minutes? Not at all.

As tempting as it is to "just check e-mail for one minute," I didn't do it. I know from experience that any problem found in the inbox will linger in the brain for hours or days after you shut down the computer, rendering "free time" useless with preoccupation. It's the worst of states, where you experience neither relaxation nor productivity. Be focused on work or focused on something else, never in-between.

Time without attention is worthless, so value attention over time.

Here are a few questions that can help you pop on the productivity blinders and put things in perspective. Even when you're not traveling the world, develop the habit of letting small bad things happen. If you don't, you'll never find time for the life-changing big things, whether important tasks or true peak experiences. If you do force the time but puncture it with distractions, you won't have the attention to appreciate it.

- ► What is the one goal, if completed, that could change everything?

- ► What is the most urgent thing right now that you feel you "must" or "should" do?

- ► Can you let the urgent "fail"—even for a day—to get to the next milestone for your potential life-changing tasks?
- ► What's been on your to-do list the longest? Start it first thing in the morning and don't allow interruptions or lunch until you finish.

Will "bad" things happen? Small problems will crop up, yes. A few people will complain and quickly get over it. BUT, the bigger picture items you complete will let you see these for what they are—minutiae and repairable hiccups.

Make this trade a habit. Let the small bad things happen and make the big good things happen. —*OCTOBER 25, 2007*

## Things I've Loved and Learned in 2008

2008 was one of the most exciting years of my life. I did more dealmaking and met more people than in the last five years combined. This produced many surprise insights about business and human nature, especially as I uncovered dozens of my own false assumptions.

Here are some of the things I learned and loved in 2008.

**Favorite reads of 2008: *Zorba the Greek* and *Seneca: Letters from a Stoic*.** These are two of the most readable books of practical philosophies I've ever had the fortune to encounter. If you have to choose one, get *Zorba*, but *Lucius Seneca* will take you further. Both are fast reads of 2–3 evenings.

**Don't accept large or costly favors from strangers**. This karmic debt will come back to haunt you. If you can't pass it up, immediately return to karmic neutrality with a gift of your choosing. Repay it before they set the terms for you. Exceptions: über-successful mentors who are making introductions and not laboring on your behalf.

**You don't have to recoup losses the same way you lose them**. I own a home in San Jose but moved almost 12 months ago. It's been empty since, and I'm paying a large mortgage each month. The best part? I don't care. But this wasn't always the case. For many months, I felt demoralized as others pressured me to rent it, emphasizing how I was just flushing money away otherwise. Then I realized: You don't have to make money back the same way you lose it. If you lose $1,000 at the blackjack table, should you try and recoup it there? Of course not. I don't want to deal with renters, even with a property management company. The solution: Leave the house alone, use it on occasion, and just create incoming revenue elsewhere that would cover the cost of the mortgage through consulting, publishing, etc.

**One of the most universal causes of self-doubt and depression: trying to impress people you don't like**. Stressing to impress is fine, but do it for the right people—those you want to emulate.

**Slow meals = life**. From Daniel Gilbert of Harvard to Martin Seligman of Princeton, the "happiness" (self-reported well-being) researchers seem to agree on one thing: Mealtime with friends and loved ones is a direct predictor of well-being. Have at least one 2-to-3-hour dinner and/or drinks per week—yes, 2–3 hours—with those who make you smile and feel good. I find the afterglow effect to be greatest and longest with groups of five or more. Two times that are conducive to this: Thursday dinners or after-dinner drinks and Sunday brunches.

**Adversity doesn't build character; it reveals it**.

**Related: Money doesn't change you; it reveals who you are when you no longer have to be nice**.

**It doesn't matter how many people don't get it. What matters is how many people do**. If you have a strong informed opinion, don't keep it to yourself. Try to help people and make the world a better place. If you strive to do anything remotely interesting, just expect a small percentage of the population to always find a way to take it personally. F*ck 'em. There are no statues erected to critics.

Related: **You're never as bad as they say you are**. My agent used to send me every blog or media hit for *The 4-Hour Workweek*. Eight weeks after publication, I asked him to only forward me positive mentions in major media or factual inaccuracies I needed to respond to. An important correlate: You're never as good as they say you are, either. It's not helpful to get a big head or get depressed. The former makes you careless and the latter makes you lethargic. I wanted to have untainted optimism but remain hungry. Speaking of hungry …

**Eat a high-protein breakfast within 30 minutes of waking and go for a 10-to-20-minute walk outside afterward, ideally bouncing a handball or tennis ball**. This one habit is better than a handful of Prozac in the morning. (Suggested reading: The 3-Minute Slow-Carb Breakfast, How to "Peel" Hardboiled Eggs Without Peeling on www.fourhourblog.com.) **I dislike losing money about 50x more than I like making it**. Why 50X? Logging time as an experiment, I concluded that I often spend at least 50 x more time to prevent a hypothetical unit of $100 from being lost vs. earned. The hysterical part is that, even after becoming aware of this bias, it's hard to prevent the latter response. Therefore, I manipulate the environmental causes of poor responses instead of depending on error-prone self-discipline.

**I should not invest in public stocks where I cannot influence outcomes**. Once realizing that almost no one can predict risk tolerance and response to losses, I moved all of my investments into fixed-income and cashlike instruments in July 2008 for this reason, setting aside 10% of pretax income for angel investments where I can contribute significant UI/design, PR, and corporate partnership help. (Suggested reading: Rethinking Investing—Part 1, Rethinking Investing—Part 2 on www.fourhourblog.com.)

**A good question to revisit whenever overwhelmed: Are you having a breakdown or a breakthrough?**

**Rehearse poverty regularly—restrict even moderate expenses for 1–2 weeks and give away 20%+ of minimally used clothing**—so you can think big and take "risks" without fear (Seneca).

A mindset of scarcity (which breeds jealousy and unethical behavior) is due to a disdain for those things easily obtained (Seneca).

**A small cup of black Kenyan AA coffee with cinnamon on top, no milk or sweeteners**.

**It's usually better to keep old resolutions than to make new ones**.

To bring in a wonderful 2009, I'd like to quote an e-mail I received from a mentor of more than a decade:

While many are wringing their hands, I recall the 1970s when we were suffering from an oil shock causing long lines at gas stations, rationing, and 55 MPH speed limits on federal highways, a recession, very little venture capital ($50 million per year into VC firms), and what President Jimmy Carter (wearing a sweater while addressing the nation on TV because he had turned down the heat in the White House) called a “malaise.” It was during those times that two kids without any real college education, Bill Gates and Steve Jobs, started companies that did pretty well. Opportunities abound in bad times as well as good times. In fact, the opportunities are often greater when the conventional wisdom is that everything is going into the toilet.

Well… we’re nearing the end of another great year, and despite what we read about the outlook for 2009, we can look forward to a New Year filled with opportunities as well as stimulating challenges.

Happy New Year, everyone.

# How to Travel the World with 10 Pounds or Less

Hauling a five-piece Samsonite set around the planet is hell on earth. I watched a friend do this up and down dozens of subway and hotel staircases in Europe for three weeks, and—while I laughed a lot, especially when he resorted to just dragging or throwing his bags down stairs—I’d like to save you the breakdown. Trip enjoyment is inversely proportionate to the amount of crap (read: distractions) you bring with you.

Practice in 30-plus countries has taught me that minimalist packing can be an art.

I returned from Costa Rica last Wednesday and have since landed in Maui, where I’ll stay for one week. **What did I pack and why?** (See the companion video at www.fourhourblog.com.[86])

I practice what I’ll label the **BIT method of travel: Buy It There**.

If you pack for every possible contingency—better bring the hiking books in case we go hiking, better bring an umbrella in case it rains, better bring dress shoes and slacks in case we go to a nice restaurant, etc.—carrying a mule-worthy load is inevitable. I’ve learned to instead allocate $50–200 per trip to a “settling fund,” which I use to buy needed items once they’re 100% needed. This includes cumbersome and hassle items like umbrellas and bottles of sunscreen that love to explode. Also, never buy if you can borrow. If you’re going on a bird-watching trip in Costa Rica, you don’t need to bring binoculars—someone else will have them.

Here’s the Maui list.

- ► 1 featherweight Marmot Ion jacket (3 oz.!)
- ► 1 breathable Coolibar long-sleeve shirt to prevent sunburn. This saved me in Panama.

- ► 1 pair of polyester pants. Polyester is light, wrinkle-resistant, and dries quickly. Disco dancers and flashpackers dig it.

- ► 1 Kensington laptop lock, also used to secure all bags to stationary objects

- ► 1 single Under Armour sock, used to store sunglasses

- ► 2 nylon tanktops

- ► 1 large MSR quick-dry microfiber towel, absorbs up to seven times its weight in water

- ► 1 Ziploc bag containing toothbrush, travel toothpaste, and disposable razor

- ► 1 Fly Clear biometric travel card ( www.flyclear.com ), [87] which cuts down my airport wait time about 95%

- ► 2 pairs of ExOfficio lightweight underwear. Their tagline is “17 countries. 6 weeks. And one pair of underwear.” I think I’ll opt for two, considering they weigh about as much as a handful of Kleenex. One other nice side effect of their weight: They’re much more comfortable than normal cotton underwear.

- ► 2 pairs of shorts/swimsuits

- ► 2 books: *Lonely Planet Hawaii* and *The Entrepreneurial Imperative* . (The latter comes highly recommended. Check it out.)

- ► 1 sleeping mask and earplugs

- ► 1 pair of Reef sandals. Best to get a pair with removable straps that go around the heel.

- ► 1 Canon PowerShot SD300 digital camera with extra 2GB SD memory card. God, I love this camera more than words can describe. It is the best designed piece of electronics I have ever owned. I now use it not only for all of my photos and videos, but also as a replacement for my scanner. I'm considering testing the newer and cheaper SD1000.

- ► 1 coffee-harvesting hat to prevent my pale skin from burning off

- ► 1 Kiva keychain expandable duffel bag

- ► 1 Chapstick, 1 Mag-Lite Solitaire flashlight, and 1 roll of athletic tape. The last is a lifesaver. It's as useful as duct tape for repairing objects but gentle enough to use on injuries, which I am fond of inflicting on myself.

- ► 1 Lewis and Clark flex lock (for luggage, lockers, zippers, or whatever I need to lock down/shut together). Standard mini-padlocks are often too cumbersome to thread through holes on lockers, etc.

- ► 1 Radio Shack kitchen timer, which I've been using to wake up for about four years. The problem with using a cell phone alarm to wake up is simple: The phone often needs to be on, and even if you use vibrate, people can call and wake you up before you want to wake up. The second benefit to using a kitchen timer is that you know exactly how much sleep you are—or aren't—getting, and you can experiment with things like caffeine power naps of different durations … but that's another post;)

# The Choice-Minimal Lifestyle: 6 Formulas for More Output and Less Overwhelm

I was stressed out… over dog cartoons.

It was 9:47 P.M. at Barnes and Noble on a recent Saturday night, and I had 13 minutes to find a suitable exchange for *The New Yorker Dog Cartoons*, $22 of expensive paper. Bestsellers? Staff recommends? New arrivals or classics? I'd already been there 30 minutes.

Beginning to feel overwhelmed with a ridiculous errand I'd expected to take five minutes, I stumbled across the psychology section. One tome jumped out at me as all too appropriate—*The Paradox of Choice: Why More Is Less*. It wasn't the first time I'd seen or read Barry Schwartz's 2004 classic, but it seemed like a good time to revisit the principles, among them, that:

- ► The more options you consider, the more buyer's regret you'll have.

- ► The more options you encounter, the less fulfilling your ultimate outcome will be.

This raises a difficult question: Is it better to have the best outcome but be less satisfied, or have an acceptable outcome and be satisfied?

For example, would you rather deliberate for months and get the 1 of 20 houses that's the best investment but second-guess yourself until you sell it five years later, or would you rather get a house that is 80% of the investment potential of the former (still to be sold at a profit) but never second-guess it?

Tough call.

Schwartz also recommends making nonreturnable purchases. I decided to keep the stupid pooch cartoons. Why? Because it's not just about being satisfied, it's about being practical.

Income is renewable, but some other resources—like attention—are not. I've talked before about attention as a currency and how it determines the value of time.

For example: Is your weekend really free if you find a crisis in the inbox Saturday morning that you can't address until Monday morning?

Even if the inbox scan lasts 30 seconds, the preoccupation and forward projection for the subsequent 48 hours effectively deletes that experience from your life. You had time but you didn't have attention, so the time had no practical value.

The choice-minimal lifestyle becomes an attractive tool when we consider two truths.

1. **Considering options costs attention that then can't be spent on action or present-state awareness.**

2. Attention is necessary for not only productivity but appreciation.

Therefore:

Too many choices = less or no productivity
Too many choices = less or no appreciation
Too many choices = sense of overwhelm

What to do? There are six basic rules or formulas that can be used:

**1. Set rules for yourself so you can automate as much decision making as possible** [see the rules I use to outsource my e-mail to Canada, included at the end of this section, as an example of this].

**2. Don't provoke deliberation before you can take action.**

One simple example: Don't scan the inbox on Friday evening or over the weekend if you might encounter work problems that can't be addressed until Monday.

**3. Don't postpone decisions just to avoid uncomfortable conversations.**

If an acquaintance asks you if you want to come to their house for dinner next week, and you know you won't, don't say, "I'm not sure. I'll let you know next week." Instead, use something soft but conclusive like, "Next week? I'm pretty sure I have another commitment on Thursday, but thank you for the invite. Just so I don't leave you hanging, let's assume I can't make it, but can I let you know if that changes?" Decision made. Move on.

**4. Learn to make nonfatal or reversible decisions as quickly as possible.**

Set time limits (I won't consider options for more than 20 minutes), option limits (I'll consider no more than three options), or finance thresholds (Example: If it costs less than $100 [or the potential damage is less than $100], I'll let a virtual assistant make the judgment call).

I wrote most of this post after landing at the monster that is ATL airport in Atlanta. I could have considered half a dozen types of ground transportation in 15 minutes and saved 30–40%, but I grabbed a taxi instead. To use illustrative numbers: I didn't want to sacrifice 10 attention units of my remaining 50 of 100 total potential units, since those 10 units couldn't then be spent on this article. I had about eight hours before bedtime due to time zone differences—plenty of time—but scarce usable attention after an all-nighter of fun and the cross-country flight. **Fast decisions preserve usable attention for what matters.**

**5. Don't strive for variation—and thus increase option consideration—when it's not needed. Routine enables innovation where it's most valuable.**

In working with athletes, for example, it's clear that those who maintain the lowest bodyfat percentage eat the same foods over and over with little variation. I've eaten the same "slow-carb" breakfast and lunch for nearly two years,[88] putting variation only into meals that I focus on for enjoyment: dinner and all meals on Saturdays. This same routine-variation distinction can be found in exercise vs. recreation. For fat loss and muscle gain (even as much as 34 pounds in four weeks), I've followed the same time—minimal exercise protocol with occasional experiments since 1996. For recreation, however, where the focus is enjoyment and not efficacy, I tend to try something new each weekend, whether climbing at Mission Cliffs in San Francisco or mountain biking from tasting to tasting in Napa.

Don't confuse what should be results-driven with routine (e.g., exercise) with something enjoyment-driven that benefits from variation (e.g., recreation).

**6. Regret is past-tense decision making. Eliminate complaining to minimize regret**.

Condition yourself to notice complaints and stop making them with a simple program like the “21-day no-complaint experiment” made famous by Will Bowen, where you wear a single bracelet and move it from one wrist to the other each time you complain. The goal is 21 days without complaining and you reset to 0 each time you slip up. This increased awareness helps prevent useless past-tense deliberation and negative emotions that improve nothing but deplete your attention.

• • •

DECISION-MAKING ISN'T to be avoided—that's not the problem. Look at a good CEO or top corporate performer and you'll see a high volume of decisions.

**It's deliberation—the time we vacillate over and consider each decision—that's the attention consumer. Total deliberation time, not the number of decisions, determines your attention bank account balance (or debt)**.

Let's assume you pay 10% over time by following the above rules but cut your average “decision cycle” time by an average of 40% (10 minutes reduced to 6 minutes, for example). Not only will you have much more time and attention to spend on revenue-generating activities, but you'll get greater enjoyment from what you have and experience. Consider that 10% additional cost as an investment and part of your “ideal lifestyle tax,” but not as a loss.

Embrace the choice-minimal lifestyle. It's a subtle and under-exploited philosophical tool that produces dramatic increases in both output and satisfaction, all with less overwhelm.

Make testing a few of the principles the first of many fast and reversible decisions. ***—FEBRUARY 6, 2008***

# The Not-to-Do List: 9 Habits to Stop Now

“Not-to-do” lists are often more effective than to-do lists for upgrading performance.

The reason is simple: What you don't do determines what you can do.

Here are nine stressful and common habits that entrepreneurs and office workers should strive to eliminate. The bullets are followed by more detailed descriptions. Focus on one or two at a time, just as you would with high-priority to-do items.

**1. Do not answer calls from unrecognized phone numbers**.

Feel free to surprise others, but don't be surprised. It just results in unwanted interruption or poor negotiating positions. Let it go to voicemail, and consider using a service like GrandCentral (you can listen to people leaving voicemail or receive them as text messages) or Phonetag.com (receive voicemails as e-mail).

**2. Do not e-mail first thing in the morning or last thing at night.**

The former scrambles your priorities and plans for the day, and the latter just gives you insomnia. E-mail can wait until 10 A.M., after you've completed at least one of your critical to-do items.

**3. Do not agree to meetings or calls with no clear agenda or end time.**

If the desired outcome is defined clearly with a stated objective and agenda listing topics/questions to cover, no meeting or call should last more than 30 minutes. Request them in advance so you "can best prepare and make good use of the time together."

**4. Do not let people ramble.**

Forget "How's it going?" when someone calls you. Stick with "What's up?" or "I'm in the middle of getting something out, but what's going on?" A big part of GTD (Getting Things Done) is GTP—Getting To the Point.

**5. Do not check e-mail constantly—"batch" and check at set times only.**

I belabor this point enough. Get off the cocaine pellet dispenser and focus on execution of your top to-do's instead of responding to manufactured emergencies. Set up a strategic autoresponder and check twice or thrice daily.

**6. Do not over-communicate with low-profit, high-maintenance customers.**

There is no sure path to success, but the surest path to failure is trying to please everyone. Do an 80/20 analysis of your customer base in two ways—which 20% are producing 80%+ of my profit, and which 20% are consuming 80%+ of my time? Then put the loudest and least productive on autopilot by citing a change in company policies. Send them an e-mail with new rules as bullet points: number of permissible phone calls, e-mail response time, minimum orders, etc. Offer to point them to another provider if they aren't able to adopt the new policies.

**7. Do not work more to fix overwhelmingness—prioritize.**

If you don't prioritize, everything seems urgent and important. If you define the single most important task for each day, almost nothing seems urgent or important. Oftentimes, it's just a matter of letting little bad things happen (return a phone call late and apologize, pay a small late fee, lose an unreasonable customer, etc.) to get the big important things done. The answer to overwhelmingness is not spinning more plates—or doing more—it's defining the few things that can really fundamentally change your business and life.

**8. Do not carry a cell phone or Crackberry 24/7.**

Take at least one day off of digital leashes per week. Turn them off or, better still, leave them in the garage or in the car. I do this on at least Saturday, and I recommend you leave the phone at home if you go out for dinner. So what if you return a phone call an hour later or the next morning? As one reader put it to a miffed co-worker who worked 24/7 and expected the same: *"I'm not the president of the U.S. No one should need me at 8 P.M. at night. OK, you didn't get a hold of me. But what bad happened?"* The answer? Nothing.

Work is not all of life. Your co-workers shouldn't be your only friends. Schedule life and defend it just as you would an important business meeting. Never tell yourself "I'll just get it done this weekend." Review Parkinson's Law and force yourself to cram within tight hours so your per-hour productivity doesn't fall through the floor. Focus, get the critical few done, and get out. E-mailing all weekend is no way to spend the little time you have on this planet.

It's hip to focus on getting things done, but it's only possible once we remove the constant static and distraction. If you have trouble deciding what to do, just focus on not doing. Different means, same end. *—AUGUST 16, 2007*

# The Margin Manifesto: 11 Tenets for Reaching (or Doubling) Profitability in 3 Months

Profitability often requires better rules and speed, not more time. The financial goal of a start-up should be simple: profit in the least time with the least effort. Not more customers, not more revenue, not more offices or more employees. More profit.

Based on my interviews with high-performing (using profit-per-employee metrics) CEOs in more than a dozen countries, here are the 11 basic tenets of the "Margin Manifesto" … a return-to-basics call that gives permission to do the uncommon to achieve the uncommon: consistent profitability, or doubling of it, in three months or less.

I review the following principles whenever facing operational overwhelmingness or declining/stagnating profits. Hope you find them useful.

### 1. Niche Is the New Big—The Lavish Dwarf Entertainment Rule

Several years ago, an investment banker was jailed for trade violations. He was caught partly due to his lavish parties on yachts, often featuring hired dwarves. The owner of the dwarf rental company, Danny Black, was quoted in the *Wall Street Journal* as saying "Some people are just into lavish dwarf entertainment." Niche is the new big. But here's the secret: It's possible to niche market and mass sell. iPod commercials don't feature dancing 50-year-olds, they feature hip and fit 20- and 30-somethings, but everyone and his grandmother wants to feel youthful and hip, so they strap on Nanos and call themselves Apple converts. Who you portray in your marketing isn't necessarily the only demographic who buys your product—it's often the demographic that most people want to identify with or belong to. The target isn't the market. No one aspires to be the bland average, so don't water down messaging to appeal to everyone—it will end up appealing to no one.

### 2. Revisit Drucker—What Gets Measured Gets Managed

Measure compulsively, for as Peter Drucker stated, What gets measured gets managed. Useful metrics to track, besides the usual operational stats, include CPO ("Cost-Per-Order," which includes advertising, fulfillment and expected returns, charge-backs, and bad debt), ad allowable (the maximum you can spend on an advertisement and expect to break even), MER (media efficiency ratio), and projected lifetime value (LV) given return rates and reorder percent. Consider applying direct response advertising metrics to your business.

### 3. Pricing Before Product—Plan Distribution First

Is your pricing scalable? Many companies will sell direct-to-consumer by necessity in early stages, only to realize that their margins can't accommodate resellers and distributors when they come knocking. If you have a 40% profit margin and a distributor needs a 70% discount to sell into wholesale accounts, you're forever limited to direct-to-consumer … unless you increase your pricing and margins. It's best to do this beforehand if possible—otherwise, you'll need to launch new or "premium" products—so plan distribution before setting pricing. Test assumptions and find hidden costs by interviewing those who have done it: Will you need to pay for co-op advertising, offer rebates for bulk purchases, or pay for shelf space or featured placement? I know one former CEO of a national brand who had to sell his company to one of the world's largest soft drink manufacturers before he could access front-of-store shelving in top retailers. Test your assumptions and do your homework before setting pricing.

### 4. Less Is More—Limiting Distribution to Increase Profit

Is more distribution automatically better? No. Uncontrolled distribution leads to all manner of headache and profit-bleeding, most often related to rogue discounters. Reseller A lowers pricing to compete with online discounter B, and the price cutting continues until neither is making sufficient profit on the product and both stop reordering. This requires you to launch a new product, as price erosion is almost always irreversible. Avoid this scenario and consider partnering with one or two key distributors instead, using that exclusivity to negotiate better terms: less discounting, prepayment, preferred placement and marketing support, etc. From iPods to Rolex and Estée Lauder, sustainable high-profit brands usually begin with controlled distribution. Remember, more customers isn't the goal; more profit is.

### 5. Net-Zero—Create Demand vs. Offering Terms

Focus on creating end-user demand so you can dictate terms. Often one trade publication advertisment, bought at discount remnant rates, will be enough to provide this leverage. Outside of science and law, most "rules" are just common practice. Just because everyone in your industry offers terms doesn't mean you have to, and offering terms is the most consistent ingredient in start-up failure. Cite start-up economics and the ever-so-useful "company policy" as reasons for prepayment and apologize, but don't make exceptions. Net-30 becomes net-60, which becomes net-120. Time is the most expensive asset a start-up has, and chasing delinquent accounts will prevent you from generating more sales. If customers are asking for your product, resellers and distributors will need to buy it. It's that simple. Put funds and time into strategic marketing and PR to tip the scales in your favor.

### 6. Repetition Is Usually Redundant—Good Advertising Works the First Time

Use direct response advertising (call-to-action to a phone number or website) that is uniquely trackable—fully accountable advertising—instead of image advertising, unless others are pre-purchasing to offset the cost (e.g., "If you prepurchase 288 units, we'll feature your store/URL/phone exclusively in a full-page ad in…"). Don't listen to advertising salespeople who tell you that 3, 7, or 27 exposures are needed before someone will act on an advertisement. Well-designed and well-targeted advertising works the first time. If something works partially well (e.g., high response with low percentage conversion to sales, low response with high conversion, etc.), indicating that a strong ROI might be possible with small changes, tweak one controlled variable and microtest once more. Cancel anything that cannot be justified with a trackable ROI.

### 7. Limit Downside to Ensure Upside—Sacrifice Margin for Safety

tested and ready for rollout without changes. If a limited number of prototypes cost $10 per piece to manufacture and sell for $11 each, that's fine for the initial testing period, and essential for limiting downside. Sacrifice margin temporarily for the testing phase, if need be, and avoid potentially fatal upfront overcommitments.

### 8. Negotiate Late—Make Others Negotiate Against Themselves

Never make a first offer when purchasing. Flinch after the first offer ("$3,000!" followed by pure silence, which uncomfortable salespeople fill by dropping the price once), let people negotiate against themselves ("Is that really the best you can offer?" elicits at least one additional drop in price), then "bracket." If they end up at $2,000 and you want to pay $1,500, offer $1,250. They'll counter with approximately $1,750, to which you respond: "I'll tell you what—let's just split the difference. I'll overnight FedEx you a check, and we can call it a day." The end result? Exactly what you wanted: $1,500.

### 9. Hyperactivity vs. Productivity—80/20 and Pareto's Law

Being busy is not the same as being productive. Forget about the start-up overwork ethic that people wear as a badge of honor—get analytical. The 80/20 principle, also known as Pareto's Law, dictates that 80% of your desired outcomes are the result of 20% of your activities or inputs. Once per week, stop putting out fires for an afternoon and run the numbers to ensure you're placing effort in high-yield areas: What 20% of customers/products/ regions are producing 80% of the profit? What are the factors that could account for this? Invest in duplicating your few strong areas instead of fixing all of your weaknesses.

### 10. The Customer Is Not Always Right—"Fire" High-Maintenance Customers

Not all customers are created equal. Apply the 80/20 principle to time consumption: What 20% of people are consuming 80% of your time? Put high-maintenance, low-profit customers on autopilot—process orders but don't pursue them or check up on them—and "fire" high-maintenance, high-profit customers by sending a memo detailing how a change in business model requires a few new policies: how often and how to communicate, standardized pricing and order process, etc. Indicate that, for those clients whose needs are incompatible with these new policies, you are happy to introduce other providers. "But what if my largest customer consumes all of my time?" Recognize that (1) without time, you cannot scale your company (and, oftentimes, life) beyond that customer, and (2) people, even good people, will unknowingly abuse your time to the extent that you let them. Set good rules for all involved to minimize back-and-forth and meaningless communication.

### 11. Deadlines Over Details—Test Reliability Before Capability

Skills are overrated. Perfect products delivered past deadline kill companies faster than decent products delivered on time. Test someone's ability to deliver on a specific and tight deadline before hiring them based on a dazzling portfolio. Products can be fixed as long as you have cash flow, and bugs are forgiven, but missing deadlines is often fatal. Calvin Coolidge once said that nothing is more common than unsuccessful men with talent; I would add that the second most common is smart people who think their IQ or resume justifies delivering late. ***—JUNE 24, 2008***

## The Holy Grail: How to Outsource the Inbox and Never Check E-

## mail Again

What if you never had to check e-mail again? If you could hire someone else to spend countless hours in your inbox instead of you?

This isn't pure fantasy. For the last 12 months, I've experimented with removing myself from the inbox entirely by training other people to behave like me. Not to imitate me, but to think like me.

Here's the upshot: I get more than 1,000 e-mails a day from various accounts.[89] Rather than spending 6–8 hours per day checking e-mail, which I used to do, I can skip reading e-mail altogether for days or even weeks at a time … all within 4–10 minutes a night.

Let me explain the basics, followed by tips and exact templates for outsourcing your own inbox.

1. I have multiple e-mail addresses for specific types of e-mail (blog readers vs. media vs. friends/family, etc.). tim@ … is the default I give to new acquaintances, which goes to my assistant.

2. 99% of e-mail falls into predetermined categories of inquiries with set questions or responses (my "rules" document is at the bottom of this post—feel free to steal, adapt, and use). My assistant(s) checks and clears the inbox at 11 A.M. and 3 P.M. pst.

3. For the 1% of e-mail that might require my input for next actions, I have a once-daily phone call of 4–10 minutes at 4 P.M. pst with my assistant.

4. If I'm busy or traveling abroad, my assistant leaves the action items in numerical order on my voicemail, which I can respond to in a bullet-point e-mail. These days, I actually prefer the voice-mail option and find that it forces my assistant to be more prepared and more concise.

Each night (or early the next morning), I'll listen to my assistant's voicemail via Skype and simultaneously write out the next actions (1. Bob: Tell him that … 2. Jose in Peru: Ask him for … 3. Speaking in NC: Confirm …, etc.) in a Skype chat or quick e-mail. How long does the new system take? 4–10 minutes instead of 6–8 hours of filtering and repetitive responses.

If you only have one e-mail account, I recommend using a desktop program like Outlook or Mail instead of a web-based program like Gmail for a simple reason: If you see new items in your inbox, you'll check them. Like they say in AA: If you don't want to slip, don't go where it's slippery. This is why I have a private personal account that I use for sending e-mail to my assistant and communicating with friends. It's almost always empty.

E-mail is the last thing people let go of. Fortune 500 CEOs, best-selling authors, celebrities—I know dozens of top performers who delegate everything but e-mail, which they latch onto as something only they can do. "No one can check my e-mail for me" is the unquestioned assumption, or "I answer every e-mail I receive" is the unquestioned bragging right that keeps them in front of a computer for 8–12 hours at a stretch. It's not fun, and it keeps them from higher-impact or more rewarding activities.

Get over yourself. I had to. Checking e-mail isn't some amazing skill that you alone possess.

**In fact, checking e-mail is like everything else: a process**.

How you evaluate and handle (delete vs. archive vs. forward vs. respond) e-mail is just a series of questions you ask yourself, whether consciously or subconsciously. I have a document called "Tim Ferriss Processing Rules," to which my assistants add rules when I send them a note via e-mail with "ADD TO RULES" in the subject. Over the course of a week or two with a virtual assistant (VA), you will end up with an externalized set of rules that reflect how your brain processes e-mail. It often shows you how haphazard your processing is. I've included my "rules" here to save you some time. A few tips:

1. Setting appointments and meetings takes a lot of time. Have your assistant set things up for you in Google Calendar. I input my own items via my Palm Z22 or iCal, then use Spanning Sync and Missing Sync for Palm OS to sync everything. On my überlight Sony VAIO, which I still use for travel, I use CompanionLink for Google Calendar. I suggest batching meetings or calls in one or two set days, with 15 minutes between appointments. Scattering them throughout the week at odd times just interrupts everything else. (Update 2009: The Palm Z22 has been discarded, and I now use a 13-inch MacBook and BusySync to synchronize iCal with Google Calendar.)

2. If you jump in your assistant's inbox and answer anything, BCC them so they are aware that you handled it.

3. Expect small problems. Life is full of compromises, and it's necessary to let small bad things happen if you want to get huge good things done. There is no escape. Prevent all problems and get nothing done, or accept an allowable level of small problems and focus on the big things.

Ready to jump in and test the holy grail? Here are the steps.

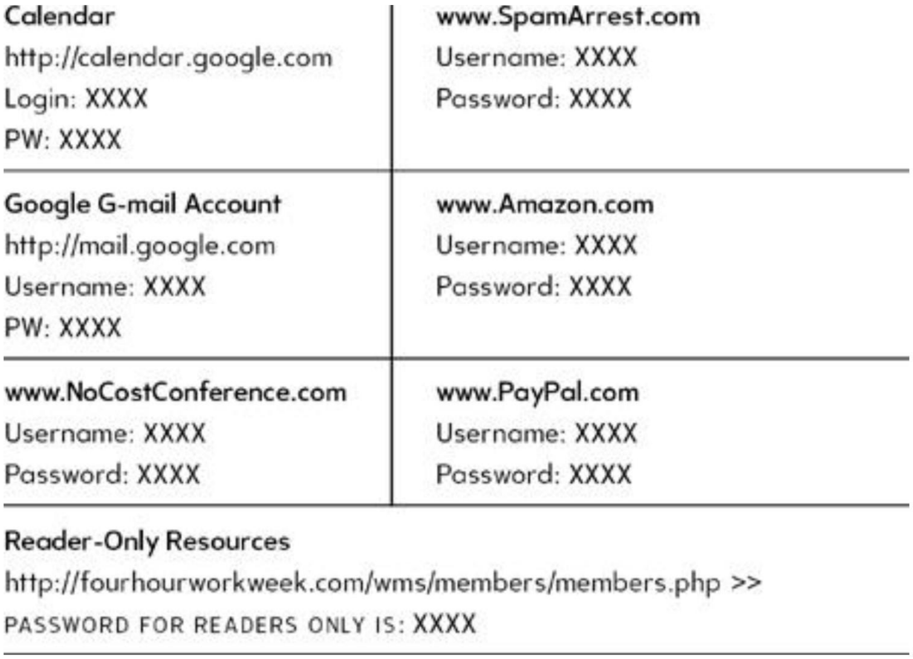
1. Determine exactly which accounts you will use and how you want them to respond to (or just categorize or purge) e-mail for you.
2. Find a virtual assistant.
3. Test for reliability before skill set. Have the top three candidates do something on tight deadline (24 hours) before hiring them and letting them in your inbox.
4. Use a probationary period of 2–4 weeks to test the waters and work out the problems. Again: There will be problems. It will take a good 3–8 weeks to get to real smooth sailing.
5. Design your ideal lifestyle and find something to do other than let your brain fester in the inbox. Fill the void.

• • •

## TIM FERRISS PROCESSING RULES[90]

[Note the Q&A format—some of the questions are my standard points for VAs, some have been added by my assistant, who put together this document.]

*Passwords*



| | |
|---|---|
| **Calendar**<br>http://calendar.google.com<br>Login: XXXX<br>PW: XXXX | **www.SpamArrest.com**<br>Username: XXXX<br>Password: XXXX |
| **Google G-mail Account**<br>http://mail.google.com<br>Username: XXXX<br>PW: XXXX | **www.Amazon.com**<br>Username: XXXX<br>Password: XXXX |
| **www.NoCostConference.com**<br>Username: XXXX<br>Password: XXXX | **www.PayPal.com**<br>Username: XXXX<br>Password: XXXX |
| **Reader-Only Resources**<br>http://fourhourworkweek.com/wms/members/members.php >><br>PASSWORD FOR READERS ONLY IS: XXXX | |

*Team Requirements*

[I often have exec-level assistants manage 4–5 other "sub VAs" who handle certain repetitive tasks, often at half the exec VA's hourly rate. The exec VA takes on an office manager or, in some cases, COO-level function.]

- ► Download: www.alexa.com —Toolbar
- ► Learn Statistics, Rank for Business Prospect and Joint-Venture Opportunities
- ► Deadlines are extremely important. Be Aware of them, and Be Punctual!
- ► If Tim says "Call me back," CALL HIM BACK, do not send an e-mail. This is an important point, as Tim does not always have e-mail access because he is traveling a lot.
- ► Even if it is late in the evening, he is up late, if he does not want to answer his phone, he will not. But PLEASE call him back when he asks you to. He much prefers a phone call to an e-mail.

- ► Purchase and read *The Elements of Style* regarding proper grammar and punctuation. We are dealing with high-profile clients on Tim’s behalf and the proper writing techniques and message says a lot about his team.

- ► Become as familiar as you can with his book and his website as to answer questions accordingly.

*Contact Information*

Tim Ferriss
[mailing address]

Tim Cell (your use only): [private cell]
Number to give others: [GrandCentral number]
Skype: XXXXX
Billing Address (Private):
[billing address]

*Purchases*

ASK [head VA], for his AMEX NUMBER. SHE WILL ADVISE WHETHER PURCHASES CAN BE APPROVED.

*Question and Answer (Preferences)*

1. How do you feel about joint ventures?

   I’m open to them, but my brand and respectability is #1. I will not do anything with anyone who comes off as deceptive or amateur. “Make millions while you sleep in our super-insane foreclosure program!” on the website disqualifies someone. I cannot be associated with anyone who might be seen as a liar or snake-oil salesman. Just ask yourself: If the CEO of a well-known company saw this, would he lose interest in speaking with me? If so, it won’t work.

   For those who pass that criteria, what have they done already? I’m not looking for first-timers, generally, unless they have an excellent track record and reputation elsewhere.

2. Do you focus solely on profit-generating tasks?

   No. I also look for prestige (Harvard, government, etc.), wide exposure, as well as building networks with people who have world-class skills in some area.

3. How do you handle spam?

   SpamArrest and Gmail. I have no problem with spam at this point.

4. What is your optimal response rate (i.e., respond to all e-mails no later than 48–72 hours after received)?

   Same day. I’m bringing you on to respond quickly.

5. Do you respond to any e-mails?

   Yes, but I’ll want you to filter them first, respond to all you can, then mark the ones I should look at with the label "TIM" in Gmail. [Note earlier in this article how I am now asking VAs to leave to-do’s via voicemail.]

6. Do you put in any events in your calendar?

   Yes, but I expect I will move more and more to having you do it.

7. Do we “manage” your items, or do you delegate? We are cool with both, but prefer to manage.:-)

   I’ll try to give the list to you to take care of. I NEED confirmations that you received the task (“on it—will be done at X P.M.” is enough) and like status updates on larger projects with milestones.

8. Who is on your team?

   Me, the publishing team, and some PR folk at this point. I might have you get involved with my other businesses later, but that’s it for now.

9. Who do we have to collaborate with on a regular basis?

   See above. 90% me, then possibly my publicist(s), tech support and web staff, and my book agent. More will come, I’m sure, but that’s it for now.

10. Who calls the shots for you?

    You can decide anything under $100. Use your judgment and report the decisions.

11. Do you have “days” off (as in no business appts.)?

    Let’s shoot for no appointments on Fridays, but let’s play it by ear. [Update: I now only have appointments on Mondays and Fridays.]

12. Who has been handling your appts. up until now?

    Me. I haven’t had any in-person meetings for close to four years. Things have changed with the book:)

13. Explain to us your “optimal” work week (i.e., how long between phone calls, how many meetings per week, travel preferences, etc.)?

    - ► I go to bed late, so try and avoid calls before 10 A.M. pst when possible.

    - ► Try and “cluster” phone calls and meetings so that I can bang them out at the same time, as opposed to having one at 10 A.M. , another at 1 P.M ., and another at 4 P.M . Have them all in a row with 15–20 minutes in between whenever possible. I’d like to do phone calls before 1 P.M . pst when possible (so 10 A.M.-1 P.M .). Calls should be kept to 15–30 minutes, always with a defined end time. If someone asks to “jump on the phone” with me, send them something like: “To make the best use of everyone’s time, Tim likes to have a well-defined agenda with objectives for a call before jumping on the phone. Can you please send over some bullet points with what you’d like to cover and decide on the call? Something like that.

14. Do you like us to schedule personal items in with your business calendar (i.e., order your mother flowers for Mother's Day, etc.)? Absolutely.
15. What are "all" the e-mail addresses we respond to for you? See earlier text.
16. Do you like us to respond as "you" or something like "client support for Timothy Ferriss."

    The latter, probably something like "Executive Assistant to Tim Ferriss" below your name—I'm open to suggestions.
17. How many times a day do you want e-mail checked?

    Twice should be fine to start. Let's aim for a minimum of at 11 A.M. and 3 P.M. in your time zone.
18. What are your working hours?

    10 A.M.-6 P.M. pst, then often 11 p.m.-2 A.M. pst. [Before you cry, "What happened to the four-hour workweek?!" realize that "work hours" here could be replaced with "active and available-by-phone hours." I have lots of projects and do not preach idleness. I am VERY active. See the sixth comment on this post on www.fourhourblog.com for more elaboration or reread the "Filling the Void" chapter in this book.]
19. Do you like using IM?Not really, unless it's a scheduled discussion. Just leave yourself logged in, and I'll log in if I need something. [I tend to use Skype chat these days, as it's encrypted and I can avoid a separate IM program.]
20. Do you prefer a phone call or an e-mail to answer a quick question?

    PHONE CALL, absolutely. DO NOT e-mail me for anything urgent. I really follow my own advice and don't check e-mail that often.
21. What is your favorite color?

    Green like cedar leaves in July.
22. Call at the end of every day (if) there is something that Tim needs to respond to in his e-mail.
23. E-books: Tell them they can download the e-bookfromwww.powells.com.
24. Label all e-mails from "Expert Click" for Tim. No need to respond or forward.
25. All Linked-In e-mails can be archived or deleted as Tim receives notification of invites as soon as he logs into his Linked-In account.
26. For start-up inquiries in the health and wellness industry (or BrainQUICKEN start-up inquiries) please see the templates in

    Gmail titled: Congratulations and General Business Questions—BrainQUICKEN Templates.
27. For language inquiries, please see the templates in Gmail titled: Reader Question on Language Resources—Language Templates.
28. When Tim types "dictate" in the e-mail response, this means that we can say to the recipient: As Tim is traveling at the moment and not able to personally respond to your e-mail, I mentioned your message while on the phone to him, and he asked me to dictate. This makes the process easier as we do not have to change the context of the person responding.

    [This is to avoid having an assistant convert my first-person "Please tell him that I …" to third-person "Tim says that he …"—providing shorthand for "cut and paste" saves hours of assistant time.]
29. If someone e-mail blasts a bunch of people and I am one of them, usually safe to ignore or delete. Read them carefully, of course, but if it says for example "a few influential people I know" or something like that then if someone can't take the time to personalize for me, forget them. If Tim is

copied, of course, that's a different story.

30. Tim's address is XXXX. THIS E-MAIL IS NOT TO BE DISTRIBUTED OR GIVEN TO ANYONE. If you want to copy Tim on an e-mail, please use the BCC field, so that it remains private.
31. Mark anyone from Princeton for me to look at (TIM label). [Note: I've since had to modify this due to volume.]
32. If I decline someone and they persist, give them one more reply—"Tim appreciates the persistence, but he really can't..." etc.—and then archive future requests. Use your judgment, of course, but that's the general rule. Some people don't know when persistent turns into plain irritating.
33. Please also create a rule to respond with "scheduled" for all items I send to be put in the calendar (when they're put in the calendar). Missing calendar items can cause big problems, so this is a check and balance to confirm.
34. No need to follow up with someone after a call has taken place unless Tim instructs otherwise, or they request something from us.
35. Send all speaking requests to XXXX and ensure that he confirms receipt. (However, also see items 38 and 39).
36. Foreign language requests (i.e., purchasing rights, if the book is available in a particular language, etc.) send to [the appropriate person at my publisher].
37. XXXX's replacement at Random House is XXXX.
38. Inquire with Tim first before booking any speaking gigs on a specific date, as he may be traveling.
39. When booking appointments in the calendar, be sure to also ask which topics they would like to discuss, and put them in the calendar description for Tim so he can prepare. Also be sure to ask for a backup phone number in case they are not able to reach Tim. [I almost always have people call me unless I am abroad, as this is another safeguard against missing appointments.]
40. Put initials in the subject line of calendar events so we know who (which virtual assistant) put the item in the calendar.
41. Prepare inquiries for Tim before sending to him for his review, i.e., get their Alexa ranking, possible dates of the event, a link to past events they have held, their budget, other confirmed speakers, etc. Then send this info to Tim for his review.
42. Respond to PX Method inquiries with the following response:

    Hi [name],

    Thanks for your inquiry about the PX Method, however the PX Method page is designed as just a template others can look at as a reference for testing their own product ideas.

    We are not sure if or when Tim will offer the PX Method for sale, but there are no plans at this time. We appreciate your inquiry nonetheless. Thanks!

    [I get quite a few e-mails from readers who do not see the disclaimer on the PX Method mock-up page and thus attempt to order a product that isn't ready to ship.]
43. Download eFAX viewer to view Tim's faxes. His fax number is: XXXX.
44. Event or speaking inquiries can be responded to as such:

    Thanks for your e-mail and for your invitation to Tim. In looking at the event online, I see that the event is April X and X, 20XX in Portland, Oregon [for example]. Before I present this to Tim, could you answer a few questions for me, so we can make a more informed decision?

- ► Would you like Tim to be at the entire event?

- ► How long would the keynote presentation be? Or would it be a Q&A panel?
- ► Do you cover travel and accommodation along with a speaker’s fee?
- ► What is your budget for keynote presentations?
- ► Have any other speakers confirmed to present?

As soon as I hear back, I can speak with Tim about the possibilities of making this happen. Thanks again!

Warmly,

[Name]

this e-mail is: [] blogable [x] ask first [] private

[name]

Executive Assistant to Timothy Ferriss

Author: *The 4-Hour Workweek*

(http://www.fourhourworkweek.com)

(Random House/Crown Publishing)

Bio and Fun: http://www.fourhourworkweek.com/blog

***—JANUARY 21, 2008***

## Proposal to Work Remotely on a Contract Basis

This is the actual remote-work proposal reader Autumn Brookmire used successfully to move to Argentina while retaining her job and cutting back to 5–10 hours per week of work.

AUTUMN BROOKMIRE July 2008

Background

After working for the [company name] for more than two years, I have a great loyalty to the people and mission of this organization. I believe I have added a great deal of value to the organization in my position as marketing coordinator. With my creative problem solving and my cost effective solutions I have changed the way we produce and distribute our holiday cards and I’ve developed a contest to bring in more usable photos for our marketing and publications. I would like to propose continuing to perform the following tasks for [company name], but on a contract basis, remotely. I plan to live in Argentina for 6–12 months starting in September of 2008. My goals are to develop my fluency in the Spanish language and immerse myself in another culture and completely foreign environment so that I develop my skills in adaptation to new ways of thinking.

I am more than happy to discuss different ways to make this possible and I have some suggestions if [company name] would be willing to consider them. We can test this arrangement for a few months to see if it works for both of us, since that would make the most sense.

**Role #1: Graphic Design and Print Advertising Coordinator**

*Responsibility:*

Create timelines for print materials and coordinate with respective program teams.

*Expectations:*

- Print materials will be completed on time.

*Responsibility:*

Coordinate design projects with program directors and outside graphic artists/designers.

*Expectations:*

- Print materials designs are suitable for the audience, accurate, and appealing.
- Print materials are professional quality and produced within set timelines.

*Responsibility:*

Maintain relationships with print vendors to minimize cost relative to time and quality in producing program print materials.

*Expectations:*

- Print materials are printed within the established budget, unless budget overages are specifically approved by the Director of Marketing.

*Contract Solution:*

By using e-mail and web-based programs such as

*ConceptShare, I can continue to coordinate these design projects from a distance. I currently maintain relationships with print vendors and designers at a distance so physical presence is not necessary for this to continue. For meetings with program directors and the marketing team, I would use a free video and phone conferencing service called *Skype. We usually meet once or twice to discuss changes to their marketing materials and the rest of the process is continued through e-mail and ConceptShare.

**Role #2: Special Marketing Project Manager**

*Responsibility:*

Maintain a collection of updated, appropriate marketing images.

*Expectations:*

- Images needed for marketing materials and websites are anticipated and acquired.

*Contract Solution:*

I am still able to complete this task remotely by doing images searches on web databases such as *iStockphoto.com. If the experiment with the *Seminar Photo Contest fares well, I could also manage that process via the web using Aptify, e-mail, and Skype.

*Responsibility:*

Identify and implement new opportunities to leverage marketing materials.

*Expectations:*

- Ideas are researched for feasibility and effectiveness.
- Chosen projects are designed and sent out within the budget and timeline.

*Contract Solution:*

I would utilize e-mail and Skype to communicate any new ideas and opportunities to leverage marketing materials. I have recently proposed creating a one-page calendar of our program deadlines to distribute to our recent seminar alumni in a fall mailing. This way students will have an easy way to remember all of our deadlines for our programs and may potentially boost our number of applicants.

**Role #3: Web-based Marketing Coordinator**

*Responsibility:*

Contribute to online advertising efforts and track results.

*Expectations:*

- Online efforts are increasingly cost effective.
- Marketing Director is informed of web-based marketing results as requested.

*Contract Solution:*

I am familiar with our online advertising efforts and can continue to help with this process from a distance. I will be able to access Facebook Ads, Google Ads, Blog Ads and aid Keri in gathering and entering data. I have experience working with our Facebook and Google Ads and have created images for Blog Ads in the past. Launching new Ads will be easily managed abroad.

*Responsibility:*

Compile collection of updated, appropriate web photos.

*Expectations:*

- Attractive, updated photos will be available for program and marketing uses.

*Contract Solution:*

As stated above with the stock photo inventory, I am still able to complete this task remotely by conducting image searches on web databases such as iStockphoto.com. The Seminar Photo Contest will also be used as a tool to aid in this compilation of images while I am abroad.

In order to more effectively track the cost of production of our print materials, I think [company name] would find value in transitioning to a contract basis for this position. I have really enjoyed working at [company name] thus far and would like to continue working for this organization from a remote location. Thank you for your consideration of this proposal.

Explanation of Software and Programs Mentioned:

**ConceptShare—www.conceptshare.com, ConceptShare allows you to set up secure online workspaces for sharing designs, documents, and video and invite others to review, comment, and give contextual feedback anytime and anywhere without a meeting. [Company name] has used this site for a few months to test its usability and has also been tested on multiple computers in Argentina (thanks to my sister* *testing it out for me while she was in Argentina).*

**Skype—www.skype.com, Skype is a free software that allows you to talk for free via the Internet. You can also use Skype with regular phones to make calls internationally for a low rate of about .04 cents a minute. Skype also has video chatting capabilities and conference call capabilities for meetings. The setup requires downloading the Skype software free) and buying a headset with microphone ($10) and webcam ($ ranges) for each computer. I have tested this software with my sister and it works well for her in Argentina and for me here.*

**iStockphoto—www.istockphoto.com, iStockphoto is an Internet royalty-free image and design stock photography website. This is one of the many sites I use to find photos for [company name]. We have already used a few photos from this site for our marketing materials.*

**Seminar Photo Contest—This contest was created by me and developed with Keri as an experiment to collect more relevant and usable photos for our marketing and publication efforts. Since we have found it to be a bit invasive to try and take the photos ourselves, we wanted to try a new approach to capture photos for our needs. All participants of our Summer Seminars 2008 are able to submit photos they have taken at their seminar with a chance to be rewarded with a $5 Amazon Gift Certificate for each image we choose.*

86. This video explains how and why I pack the items in the list that follows. Links for all items are also included.

87. This company filed for Chapter 11 in June 2009.

88. For the exact breakfast, just serach “slow-carb” on www.fourhourblog.com or both “slow-carb” and “Ferriss” on Google.

89. This has thankfully decreased to 2,000–3,000 per week as of this writing.

90. This post is, of course, available on the blog for those who would like to copy and paste the rules for their own use.

# Living the 4-Hour Workweek

## ► CASE STUDIES, TIPS, AND HACKS

- ► Zen and the Art of Rock Star Living
- ► Art Lovers Wanted
- ► Photo Finish

- ► Virtual Law
- ► Taking Flight with Ornithreads
- ► Off-the-Job Training
- ► The 4-Hour Family and Global Education
- ► Doctor’s Orders
- ► Financial Musing
- ► Who Says Kids Hold You Back?
- ► Working Remotely
- ► Killing Your BlackBerry
- ► *Star Wars* , Anyone?

### ZEN AND THE ART OF ROCK STAR LIVING

Hi Tim,

Here’s the story. I’m a musician based in Munich, Germany. I’m running my own label and it has been difficult to get it off the ground. While working on that, my creativity slowly decreased until I hit rock bottom (a couple of times).

While it is still difficult to survive in the music industry I find it not hard at all now to do what I want to do. And that’s all I do. I do what I want to do. It includes being a father, making music, composing, taking care of business, traveling, learning languages (mostly Italian), riding my bike, etc.... It’s all in the following paragraphs.

1. I read the book step by step for about two months from September/October 2008 (plus surfing your blog) and just made tabula rosa with my life. (Lots of brainvomiting on paper.)
2. I started outsourcing things that bothered me most (and therefore kept hanging out in my to-do list the longest). I outsourced:
    - ► research, most of which is music-industry related (research outsourced saves about 2–3 hours/day)

  - ► website maintenance (social websites like Facebook, Myspace, etc). I'm planning on doing most of my marketing through these sites in 2009 and I'm on about 25+ sites as an artist.

    My VA (getfriday.com, as recommended in your book) does all the updates and checks the sites once a week to gather e-mail messages, comments, etc., filters them and sends me a report once a week including all the details for me to respond to. (Saves about one to two hours/day.)

- ► photo retouching for my press pics is done by elance (saved five hours of work time and about $500).

- ► management of my mailing list for gig dates, album updates, etc. (Saves about one hour for each mailing.)

- ► I started testing muses (learning languages with music to sell online). I'm still testing!

- ► I decided to open a publishing operation online for film companies to license music for film with just a mouse click, without having to negotiate deals for months. It will happen in 2009 (I start testing soon). People are generally surprised and amazed that a person who doesn't seem to be very corporate (I look like a retired punk rocker, haha) outsources parts of his life and lives like a millionaire (I guess we do although we're far from it!).

I realized that I could do it after I got the first positive feedback from my outsource VA. I got the results of my project posted on elance and a day later I got the results. I went, yeah baby, this is MINE! The biggest change is, that I now have my life under control. I take care of my little daughter (20 months) half the day (second half, my wife takes care of her), I take care of business, and I take time to do things I always wanted to do. Revenue-wise I'm pretty much the same I was before but I have a lot more spare time and a clear head (so I guess I've gotten a lot richer!).

I work whenever I want (no boss) about 24–30 hours/week (including office hours and music-studio hours) and what I do now is only what I really love to do. I'm still step-by-step optimizing efficiency to reduce office hours (currently about 10 hours/week). My dream is to dissolve my office altogether, go paperless, and basically only have my laptop as an office.

I eliminated all work that has gotten me down or was wearing me out (eliminated an extra workload of about 10 hours/week). I do not take on jobs (writing/producing music) unless I really love the project. I eliminated all complainers and haters (saves my stomach).

I just started my blog juergenreiter.com, "zen and the art of rockstarliving," where I want to share the changes I made to my life (mostly for musicians to see the light at the end of the tunnel).

And I recorded an album of my music and for the first time in my life did all the lyrics myself! It's going to be out in spring on my label ORkAaN Music+Art Productions.

I'll be on mini-retirement in New York this year for six weeks. I'll be in Sicily to learn Italian for about two weeks in May. I'll be back in Sicily to travel the island by bike for another 2–3 weeks in September. And am planning on going to either Mexico, Central America, or Australia in the winter.

I learned to shave with a straight razor within about 30 minutes, which I wanted to do for years. Shaving is a real exciting ritual now and a lot of fun! I will do a master course for coffee experts in April (I'm a coffee junky!) and become a "maestro del café." I helped my wife quit her teaching job and fulfill her dream to run a cafe in Munich, Germany. It's called Frau Viola and opened its doors in October 2008. It is running great! (www.frauviola.wordpress.com)

Can you measure all of that? I think it speaks for itself!

The general mindset of 4HWW has given me the calmness of being able to take time to play with my daughter and enjoying my "free time" without getting the fear of missing out on something or wasting my life. I'd say overall (with all the above-mentioned changes) my productivity increased at least 70% and doubt decreased by 80%.

For those just getting started:

1. start small think big.
2. identify what excites you vs. what bores you
3. eliminate and focus on what excites you
4. stick to what excites you no matter what people say. It's your life, live it the way you know is right for you.
5. read ***4-Hour Workweek***, obviously! ***—J. REITER***

## ART LOVERS WANTED

I saw my father work himself to the bone for 20 years as a garbage-man when we immigrated from Mexico. As I looked at my life in April 2007 in a lonely hotel room after another endless week of travel for my employer far from my family and those I love, I realized that at 33 I was on the same path to work myself into the ground and give up on my lifelong dream of pursuing my love of music and theater.

In life there are no accidents and that night as I was checking an e-mail from an old friend he suggested the 4HWW. I devoured the book in a few hours and began immediately to apply the key principles. When I told people about the book and about what I intended to do everyone said I was crazy. I focused most of my efforts on Dream-lining, Elimination, and Liberation. As an employee I wanted to first achieve liberation with a remote work arrangement. Despite several failed attempts I persevered (great lesson in negotiating) and was granted the opportunity to work remotely. This changed everything. I went from 9+ hours of work a day with weekly work-related travel to four hours a week, one week of travel per month, and I managed to get a $10,000 raise and deliver 2x the productivity in my job from the previous unproductive year.

As a result I now live with my once long-distance girlfriend in Seattle (my hometown). I spend my newly found time pursuing my passion for music (I sing in a choir and write my own folk-rock music), theater (I am performing in my first fully improvised 60-minute play this weekend), and fitness. I am training for my second marathon now.

Most of my friends cannot believe that I can actually spend most of my time pursuing my love for the arts and still make a full time income on only four hours a week. The best part of this is that I have found mentally the meaning of freedom. Reality is truly negotiable and now my reality is that I can spend endless hours enjoying the company of my father, who waited twenty years till he retired to enjoy the freedom that I have found less than 24 months after reading ***The 4-Hour Workweek***.

As an immigrant I want to spread the message that to succeed in America in the 21st century we must NOT work hard, instead we must follow the principles of the 4HWW and work smarter so that we can truly achieve the New American Dream: Freedom to enjoy the most precious resource we have in life … our time on this earth.

***—I. BARRON***

## PHOTO FINISH

Hey Tim,

I wanted to tell you that your book, ***The 4-Hour Workweek***, has been a true inspiration and life-changing resource for me this year!

I bought your book in November. Before then, I didn't know what "workflow automation" was. I had a part-time employee, but her work was actually *creating* more work for me. I would work until sometimes 3 A.M., and get up at 7. I'd tell you I wanted to travel, but the truth is that it seemed impossible to me. I didn't have time or money.

I was listening to your audio book one day. I had been listening to each of the chapters, sometimes over and over again. I was jogging. I stopped in my tracks. I believe I was listening about a case study about someone who sold music files over the Internet.

I'm a photographer. Weddings mostly. I wondered how I could sell digital images over the Internet. Then I came up with a fantastic idea for a family photography company. I stopped right there, and reserved a website on my iPhone.

Two months later, I had a website, access to thousands of photographers across the country, and our first sale. Even better, I am now in the family photography business, and I never have to shoot myself. Even better +1, we are the first family photography business that doesn't sell prints. Only digital files. It worked! I have now adopted this for my wedding photography as well. Other photographers are so offended, but I am making WAY more $, my costs are almost eliminated, and my time is free!

I know the above is vague, but it's not the point. The point is that now I work better, faster, I have two more employees, I turned off my e-mail notifications on my computer and my iPhone, despite all of what it's capable of, it doesn't even ring. E-mail has been disabled. I just check it every so often to see what calls I missed.

Today, my fiance loves me because I come home in time for dinner and I leave my laptop at work. It's a life I never thought I'd be able to live. In the meantime, systems are working in my place and this year looks to be a lot better, financially, than last.

Then I decided it was time to try my first mini-retirement. The goal: ski the Swiss Alps and spend five days in Switzerland and spend less than $1,000 total. I got a roundtrip ticket for about 500 bucks. My ski pass for one day at Engelberg was $80. Lodging was free, thanks to your suggestion www.couchsurfing.com, and I ate roasted chestnuts, brats, fish and chips and drank great beer all week long. I did it!

I am forever grateful, and am excited for more mini-retirements. Here's to living during the best years of my life.

P.S. I leave May 11 for a month-long work vacation to Italy (I have been hired to photograph two weddings in Siena). I plan on vacationing a LOT more than I will be working.

***– MARK CAFIERO, Photographer***

## VIRTUAL LAW

I used to work at a large Silicon Valley law firm, but one day I woke up and decided that I wanted to travel for a year and learn a foreign language. Six weeks later I was living in Cali, Colombia—I'd never visited Cali before and hardly spoke a word of Spanish, but that's what made it exciting to me. Well, almost two years later, I still spend 95%+ of my time living and working from Cali, Colombia (I recently bought a gorgeous apartment here that I could never afford if I lived in California). I also have a full-time maid/cook (well, five hours per day, five days per week), which costs me less than US $40 per week!

I started my own virtual law practice and then joined forces with my old boss. My U.S. number rings through to me wherever I am in the world (originally I'm from New Zealand so I travel back there a lot, too), and all my U.S. mail is delivered to Market Street, San Francisco, and scanned so I can view it online. If I need to mail letters, I have another service which prints the letter and sends it within the U.S. so there are no international shipping delays.

Definitely use www.earthclassmail.com for mail receipt/scanning. They have different packages but it's around $20-$30/month. You can also choose one or more P.O. boxes or physical addresses. My Market Street address is actually an earthclassmail address.

For printing small letters and mailing within the U.S. I use www.postalmethods.com. It's a little clunky at first but it's fine when you get used to it. It's very cheap since you only pay when you send (a four-page letter works out to just over $1 including the postage).

Come visit me sometime. Colombia is nothing like what you hear about—I feel a lot safer walking around late at night here than a lot of places in San Francisco. But don't tell anyone, those of us living here want to keep it a secret!

***—GERRY M.***

## TAKING FLIGHT WITH ORNITHREADS

Tim—

My mentor gave me your book this past July and it had a tremendous impact on my life, its arrival could not have had better timing. About the time I read it, I was a few weeks away from competing in my first Olympic distance triathlon. I had trained for five months, felt and looked strong, but even more important the discipline and working toward a physical goal resulted in a creativity I hadn't felt in years. I posted a competitive time in the event and felt so optimistic about my abilities that I signed up for a half ironman competition.

Riding that high and following the principles of your book, I thought of dozens of ideas for products/businesses and am on the verge of launching the first of those ideas. It is a line of apparel called OrniThreads which will provide modern, scientific designs of birds to Gen-X and Gen-Y birders.

The reasons for focusing on this demographic are twofold:

1. For my "day job," I work at [company name]. I have learned a lot about their audience/membership, e.g., like the fact that there are 70 million Americans who actively bird (a staggering statistic from the U.S. Fish & Wildlife svc). Birders are a passionate lot and their interest only seems to grow over time—it never dies! They also tend to skew from the middle to upper class and are educated.
2. I took an ornithology class this summer at Columbia University (where I am enrolled in a conservation biology program) and fell in love with the illustrations in my textbooks and wanted to surround myself with these images.

I am launching www.omthreads.com in the next week or so and the first of my three designs are being printed as we speak.

I have big aspirations for the company, but am just trying to get the first collection to customers and learn as much as I can. Your book has been incredibly helpful in outlining the necessary steps I need to take to succeed and hope that my idea has some legs (or wings) which translates into an automated income.

If you are in NYC anytime soon—promoting your book or otherwise—I would love to meet you. Sincerely, ***—BRENDA TIMM***

### OFF-THE-JOB TRAINING

I used concepts from the 4HWW to work remotely from August of ’08 until January of ’09. I went to Portugal, Europe, Spain, Sweden, and Norway surfing and snowboarding my brains out. Best part about it? I came home with three times as much money in the bank than I would have had if I continued the normal 9 to 5. I work for [world-famous design company] as a software developer, and was able to put the concepts to use and really change my life. I paired my iPhone + Fring (Fring is voice over IP on the iPhone, it allows you to use one device for everything, and have a local number abroad).

I spent four months prior to departure being sure to never be at my cube, but always be just around the corner. I made a point to ALWAYS be available on Instant Messenger, so when people would walk over to my cube and look for me in person they would see I was somewhere else, then hop online and ask, “Where are you?” My response was always similar, just down the hall in the cafeteria … just down the block at the coffee shop, or at co-worker X’s desk. After two months of this a magical thing happened: People always looked to get me via Instant Messenger and stopped dropping by my desk altogether. That allowed me to be 6,000 miles away without anyone noticing.

Something else to consider… how **time zone** affects remote work environments. I noticed, while in Norway (nine hours away), that it was the perfect amount of time. I was, in a sense, living in the future. My day was almost over by the time my boss woke up … this allowed me to explore Norway’s fjords, mountains, and undiscovered frigid surf spots in complete peace and without ever having to worry about getting a call from overseas. It was perfect … If I wanted, I could explore all day, come home and have some dinner, then ichat with my boss for 20–30 minutes and check in. The few times he needed something urgently, he was able to give me work when he went to bed, and have it completed in the morning when he woke up. ***—B. WILLIAMSON***

### DOCTOR’S ORDERS

Hi Tim:

Here’s my story …

My dream started about four years ago. I was in the process of taking my psychology licensing exam, and after speaking to a friend, decided that I would reward myself with a trip to South America. We were both exhausted from our 9-to-5 (and sometimes 6, 7, or 8 p.m.) hospital and clinic jobs.

I had traveled extensively throughout the United States and some parts of Europe, but I had never experienced South American culture.

My trip there was absolutely fantastic and really opened my eyes to other ways of living and culture. During my trip, I spent a lot of time speaking to expatriates about how they used their retirement funds and pensions to live the lives of kings there. One thing was evident: Most of the expatriates who attempted to “set up a business” to help fund their lifestyle had failed miserably. I hypothesized that there just wasn’t enough currency (pesos) in the marketplace to really sustain a “gringo”-oriented business.

After my trip, I told my friend that I needed to dedicate all my energies to developing a method of receiving income from U.S. citizens while living elsewhere. VOIP had recently been introduced to the marketplace and Internet service was improving in South America and other parts of the third world.

The business had to be based upon absolute mobility. I boiled the whole business down to two basic functions: reliable telephone via VOIP and high-speed Internet.

At the time I had a small research consultation practice where I was helping doctoral students on the phone and via e-mail to complete their dissertations, theses, and statistical analyses. I had a small website that was getting traffic but I was relying on others for web and marketing services. I subsequently learned more about search engine optimization and web marketing and eventually took control of all web marketing and promotion of my website, http://www.ResearchConsultation.com, allowing me to expand my business substantially.

During the next three years I conducted numerous "mobile tests" … traveling to Costa Rica, the Dominican Republic, Venezuela, and Colombia in order to fine-tune my system of conducting business from abroad.

I finally left my job last November, the day before Thanksgiving, vowing to never return to the mundane 9-to-5 structure. My job had even recently instituted a "bio-metric fingerprint" identification system where you had to "punch in and out" at the beginning and end of your hospital shift with your fingerprint to ensure that you were working your eight hours. This was just another sign that I had to leave.

I now live in NYC and Colombia and travel to other parts of the world throughout the year: speaking to customers, managing my contractors (U.S. and Colombian) in order to acquire U.S. dollars while living for a fraction of the cost abroad. I'm also developing other websites and businesses (community forums) that will hopefully be more automated, requiring less day-to-day interaction and monitoring.

Well, that's my story for now … today South America, tomorrow anywhere I can get a high-speed connection (banda ancha)! My stress level has dropped significantly since leaving my old job and my quality of life has improved enormously.

My family and friends in NYC still think I'm out of my mind, and I continue to fully agree with them…. ***—JEFF B.***

## THE 4-HOUR FAMILY AND GLOBAL EDUCATION

Tim,

We moved to a totally digital nomadic life traveling the world as a family in 2006, so we discovered your book and ideas after we had begun and loved it! Our life has changed totally and is more fulfilling and much more simple. We are greener, leaner, healthier, happier, more connected.

Other people thought we were absolutely nuts when we decided to do this in 2004/5, but now many of those same people think we are smart and psychic.

Problems finding a good school fit (despite having many award-winning excellent ones at our disposal) was probably the most specific moment (John Taylor Gatto says it best on why schools do not educate) that helped us to change as well as wanting more time together and forecasting the house/economy crash coming.

I think more families will be taking mini-retirements and living slower, traveling digital nomadic lives. If you are away for months as a family, you need to be informed about all the wonderful educational opportunities which are actually richer than staying home (which few realize)!

There are a TON of fantastic resources like Classroom 2.0 and many innovative educators online. My daughter just turned eight and is having a blast with her online course with John Hopkins University/CTY and it is also a nice resource for friends. Today one can immerse deeply in one culture outdated negatives on Third Culture Kids (TCK) based on studies from the fifties.

Maya Frost[91] has excellent information about older kids and even a new paradigm when it comes to going to university. I think education is one of the things going through a total transition due to the Internet, and parents need this info to make important decisions.

We have had a fantastic experience in going to a local school in Spain that has allowed my child to immerse very deeply in her second language, culture, and literature. More info (in the book) on local schools is needed and how to experience it as a family for months at a time.

We have used local people like a wonderful flamenco teacher for our child and we have also used online sources like our piano teacher in Chicago who teaches our child in Spain via Skype.

E-libraries are very important (especially with a child who is a voracious reader). Http://learninfreedom.org/languagebooks.html is an excellent resource on language education with great books on raising a bilingual child, even if you are a monolingual!

***—SOULTRAVELERS3**, **a family living abroad and loving it***

## FINANCIAL MUSING

I graduated from Stanford University and started working in investment banking in July 2006, and, in a sick way, almost enjoyed it at first. Yes, it was a terrible lifestyle and all, but I was learning a lot and moving up very quickly. I have (had) a type-A personality, so it appealed to me on some level.

As the year progressed, though, I realized it wasn’t sustainable and that I wanted out… but like so many other people, I failed to take action immediately.

In May 2007, I was driving home at 3 A.M. one night after having pulled 4–5 all-nighters previously, and crashed into a tree on the side of the road. If you’ve never crashed into an inanimate object while asleep at the wheel, just imagine waking up five feet from the ground while bungee jumping as the cord is about to snap to get an idea of what it feels like.

“At the ER”

That was the subject line of the e-mail I sent out the next day to my entire office. Luckily, everyone understood and told me to take a rare three-day weekend. Luckily I survived with no major injuries, but at that point I decided it was time for a change.

I met up with some friends for dinner a week or two later and relayed my story. One friend there (who recently quit her job to pursue professional acting—her dream—while selling information products online) told me about this book she recently read called ***The 4-Hour Workweek***.

I thought it was a scam, of course, but I really hated my life and decided I needed to check it out at the very least. I read it in one sitting. And then I read it again, just to make sure I wasn’t hallucinating. Before ever getting into finance, I had done some work online with graphics and web design and I had a technical background, so nothing in the book seemed outrageous to me—I just didn’t realize how easy and accessible it all was. Also, I had lived in Japan for half a year in college and loved it—and long-term world travel had always been one of my goals.

I sat on the ideas in your book for a while, took a quick vacation to return to Japan in October 2007, and when I came back decided that I had to get started. My muse: sell an investment banking interview guide. It’s a niche, high-demand subject and I knew I could make a better guide than anything else out there. One problem: I had to stay anonymous since I was still working, and advertising with Pay-Per-Click would be way too expensive given the high CPCs for related keywords.

In November 2007 I decided to start a blog, Mergers & Inquisitions (http://www.mergersandinquisitions.com), about the investment banking industry and how to break in, aimed at a mix of college students, MBAs, and working professionals. While I built my audience, I consulting from my readers, so I started with resume editing and expanded into mock interviews—yes, not very "muse-like" but I charged high rates and could make my old salary in a fraction of the time. I did this ALL while staying completely anonymous out of necessity—because I didn't want to get fired without an alternative income stream. Amazingly, my services took off even though I couldn't tell anyone who I was.

At the same time, I decided I would not get another job in finance, and would instead leave in June 2008. So I had a very short amount of time to make everything work. Almost every single one of my friends, roommates, and family doubted me and said it would never work. I decided they were all wrong and I would just do it anyway—worst-case scenario, I could always reduce my expenses and move to Thailand to teach English.

To boost my income, I completely revamped my site to sell more of my offerings, which took me from pocket change to full-time income from part-time consulting over July-August 2008. This allowed me to travel to Hawaii and Aruba to go snorkeling, surfing, and shark-cage-diving and visit friends in other parts of the U.S. all while making an investment banker's income from part-time work.

As the recession and economy worsened, my business picked up because it was counter-cyclical—anything that helps people find jobs is in huge demand in a poor economy. I've since helped scores of laid-off bankers and other financiers find work elsewhere. However, I was also starting to work a lot more because I was effectively trading time for money … so over the fall I started to work on my original product idea—my interview guide—and released it to great success later in 2008.

It has gone on to free up a ton of time, double my revenues, and put the majority of my income on autopilot. If I didn't do any further work from this point onward, I could make 2–3x my previous monthly income simply by writing once or twice a week for my site (4–5 hours) and doing limited consulting on the side (10 hours). So you could say I've increased my income almost 3x while reducing my hours 6x-9x and making myself completely mobile.

I admit that often I do "work" more than this, but it's all on related educational projects that I want to work on, not anything that I have to work on. And if I don't feel like working one week, I can reduce my hours to the 5–15 hour range and spend my time on learning languages, sports, or traveling to exotic destinations.

This setup allowed me to take an amazing trip to China, Singapore, Thailand, and Korea in December-January and get in some ridiculous adventures. I'll be moving to Asia in a few months and after that, traveling the world indefinitely while running my business from coffee shops.

Incidentally, I met up with a lot of customers in Asia who thought this was the coolest thing ever!

Your book has changed my life and infinitely improved my lifestyle, and I just wanted to thank you for everything.

***—B. DECHESARE***

### WHO SAYS KIDS HOLD YOU BACK?

My first action was to think "what is the worst that can happen on a scale of 1–10" if I quit my well-paid, very secure government job? The power of this thought process is incredible.

I quit my job, sold my house, and went camping for three months with two kids under two and a half and a pregnant wife (mini-retirement). We (very slowly) drove the SE coast of Australia from Sydney to Adelaide.

With the complete clarity of mind that comes from being in a field with your family with no immediate worries, I put into action a plan that I had been tinkering with for 12 months. I bought a wireless Internet dongle and created an info product for electrical engineers, and wrote some software to go with it.

Managed this by (a) going on info diet, (b) working 9 p.m.-midnight in a campsite with no other distractions, (c) outsourcing everything that I would find difficult or time consuming (like the tricky programming stuff and the illustrations for my book).

After about four weeks I had an automated informational website that had replaced ½ of my full-time income—requiring > four hours per week to maintain.

The original plan was to arrive in Adelaide and get a J.O.B. But with my passive income, I decided to simply grow my new business and am currently very close to replacing 100% of my previous income. It feels f&*#ing brilliant.

Now we plan to travel the world slowly until the kids are ready for primary school…

Who says kids hold you back?! ***—FINN***

### WORKING REMOTELY

One month and one year ago, I read 4HWW on the recommendation of my sister's boyfriend after I had been talking for months about changing my life drastically and moving to Argentina to learn Castellano. After reading the book I stopped talking about my dreams and immediately started setting short-term and long-term goals. I bought a notebook to track my monthly goals and tasks. I did lots of research on potential remote working situations and I started telling my close friends and family about my new plans. Everyone that I told thought it was just an idea and I wasn't actually going to go through with it. They thought it was a "some day I'd like to do this" idea and that I wasn't actually setting daily goals to get me there. They knew that I loved my job so why would I leave it for a life of uncertainty? I didn't think of it that way. I wasn't scared, I was excited at the prospect of a new way of life, a fresh start, and even though I loved my job I also had other things I wanted to accomplish in my life. At first I thought about teaching English to make a living down there, but deep down inside all I really wanted to do was continue working for my current company, just doing it remotely. The book gave me the confidence to think this was actually possible, when everyone around me thought it was impossible.

I decided to write up a proposal[92] and present it to my boss even at the advice not to do it from everyone I knew. If my boss rejected my proposal, I had enough money saved up to live in Argentina for at least six months to get me by until I could figure out how I wanted to make money there. I was not giving up on my dream of living a freer, happier life with less work and more time for myself. All odds were against me but I took a calculated risk and had faith in myself. After I handed in my proposal, I was ready to expect the worst. Everyone around me was waiting with baited breath and words of encouragement after I got rejected. When I left the meeting with my boss I couldn't believe it. She accepted and was eager to talk to me about the details. She even had a smile on her face and told me how awesome my proposal was. No one else could believe it when I told them. After the shock wore off, I realized that I could actually do this, and a huge weight was lifted from my shoulders. The hardest part was over and now I could start thinking of more possibilities for my new life.

I set my goal to move to Argentina for September 2008. I arrived here on September 3 and have been here for about six months now. I live in the capital city of Jujuy, Argentina, a small province in the northwest of Argentina. I work about 5–10 hours a week and I find that I am much more focused now that I am out of the office and working alone. I have a private Spanish tutor that I meet with for two hours, five days a week. I have a handful of friends that I spend time with, practicing my Spanish. I go to the gym three times a week and go to yoga two times a week—something I didn't do in the States because I didn't have enough time. I eat healthier because I have more time to focus on what to eat. I have more time to dream up bigger things that I want to do with my new free time. I have dreams of owning a bar or cafe, so maybe a few years from now that will be my next endeavor.

My advice to 4HWW readers is to take from my experience. I rely heavily on the advice of my friends and family, but sometimes you have to ignore the advice of your loved ones to really make some thing happen. If you believe the impossible can be made possible, it will happen. ***—A.K. BROOKMIRE***

### KILLING YOUR BLACKBERRY

I'm a 37-year-old Subway franchisee owning and operating 13 stores. Been doing this for seven years. Prior to reading 4HWW I was KING at W4W (translate: work for work's sake)! I'd never given myself "permission" to behave differently than I did as an employee in the past. 4HWW was absolutely liberating for me. I literally "caught myself" and began the process of curing my addiction to W4W. I used to always be "on" and I was never really "present" anywhere—too busy doing the "blackberry prayer" at the dinner table instead of spending quality time with those who were present. Holidays were just a remote office for battling the e-mail tsunami. 4HWW gave me a new paradigm and I began to look at my business as a "product," the (original) purpose of which was to provide me with a disproportionate amount of income vs. time invested personally by me—to what end? To ENJOY MYSELF and to have complete autonomy over my schedule and activities. So I got off my own back, told myself it was OK to pursue the original purpose and here's what I did:

Crunched my "always open" workweek into four days and 20 hours. I immediately began taking Mondays OFF, giving me a nice three-day weekend. (Fridays are in the "CROSSHAIRS" next!) Tuesday to Friday I work 11 A.M.-4 p.m. (20 hours per week). With the "unluxury" of time in this crunched workweek I was forced to appraise everything through the 80/20 filter and found that 50% of the 80% was pure crap and the other 50% of the 80% could be done by someone on my payroll. Great!

Everything I do now has to somehow either increase sales or decrease costs otherwise "it's someone else's job." You can't be "half-pregnant," so when I'm "on" I'm really on and when I'm "off" I'm off—good luck trying to contact me. I still carry portable e-mail but I've killed "auto-sync" (the bane of modern mankind in terms of interruption) now it's on a Tues-Fri, 11 A.M.-4 p.m. schedule. Outside of that window it waits.

My e-mail autoresponder eliminated 50% of my e-mail within two weeks as people sending me meaningless crap got fed up looking at my autoresponder and stopped including me—love it! I keep a short, compact "to-do" list and anything time-bound is in my calendar. These get my attention before any other "inbox" does because I've previously decided what's important for me to get done—the rest can wait.

I could go on, but all in all I think this is a message that the self-employed need to hear so badly. With no "boss" and no "clean edges" to work-life/home-life it's so easy to fall into a W4W grind and your business becomes a tractor beam that trails you inexorably down that path. 4HWW is the antidote!" —***ANDREW, self-employed in the UK***

### *STAR WARS* , ANYONE?

I knew my quest for the 4-Hour Workweek was working when my daughter's kindergarten teacher asked her the question: "What kind of work does your father do?" As the teacher re-told the story back to me, it was my daughter's answer that really struck a chord. "Your daughter turned and looked up at me with the most serious look on her face and said, 'My dad just sits around and watches *Star Wars* all day.'"

It's funny how this one simple question, and not to mention my daughter's answer, would be the moment of true 4HWW self-awareness for me. You see the answer my daughter gave her teacher has a deeper meaning. I believe what she meant to say, if she could articulate it, was "My dad sort of does whatever he wants to do."

I read the 4HWW almost two years ago when I was on vacation at the beach with my family. I remember it well, because I kept reading parts of the book to my wife, bothering her to no end. I am a developer and enterprise administrator for a large financial institution in Atlanta, Georgia. Part of my job is supporting the large complex document captures systems that I help build. Due to the importance of these systems I am expected to be reachable 24/7/365. That is good for job security, but can be bad for my family life. I have four beautiful children and I strive to be a true “hands-on” dad who is present in my family’s daily lives. So armed with your book and a fresh (ocean air) perspective, I set out to put many of the 4HWW principles into practice.

First, I worked on changing my e-mail habits. I took a hard look at my inbox and used several of the techniques outlined in the 4HWW to eliminate all the waste and noise. I formed new habits around batching my e-mail sessions and it didn’t take long to achieve a zero inbox using the “trusted trio” folder method. I also applied the less is more philosophy to composing my e-mails. I went to great lengths to ensure I am as clear and concise as possible. Only communicating exactly what is needed to the right audience and not to the world. By eliminating all the noise and fat from my e-mail diet it became much more clear what “actions” or “to-do’s” were important.

Meetings and conference calls were the next area of attack. I scrutinized each meeting invite and began declining requests left and right. Most of the time I would claim I had too much going on to attend. I started asking for the minutes of the meeting or for someone to IM me if they had a specific question I needed to answer. When I do attend a meeting it is almost always via a conference call. Due to conference room restrictions and geographic challenges in our company most of our meetings are done virtually anyway.

Less wasted time meant more time to focus on work and tasks that really mattered. I felt like I was doing less but getting more things done and with better results. The right people were starting to notice and the perception of my ability to get the job done had never been better. I was making my management look good, and when that happens they stop asking questions or micromanaging daily activities. I kept proving to them I can do it without interference. Now was the time to make the push for what I really wanted and that was to go virtual!

Going virtual was actually very easy. I had a solid foundation with my manager and others in the chain of command. Almost all of my daily work was already remote-ready. At home, I have a great dedicated office in our finished basement. It is situated well away from the rest of the house and is mostly free of distractions. I have my own bathroom with shower and I even have a mini-fridge and microwave. I dare say that my home office rivals the amenities of the top executives at my company. Most of all, I have a wife and family that totally understand and respect the rules I set for myself to continue this success.

At first, I worked one or two days a week from home, but it didn’t take long before I found myself working four out of five days a week from home. When the Southeast was hit by the gas shortage and the price of gas nationwide was cresting $4 a gallon, the company made working from home even more accepted and official. I became an overnight model for others to follow. As people around me were in a panic as to how to get to work when no gas could be found, I was happily working away at home just business as usual.

At this point, things were working better than I ever expected. Using my 4HWW skills I now had more time to be that hands-on dad I wanted to be. I became a regular up at the elementary school. I eat lunch in the cafeteria with my girls, especially on fried chicken day! I participate in a program called D.E.A.R. which stands for Drop Everything and Read, where a few times a month I come in and read to each class. I drive my kids to school and I get to see them when they come home. For my entire family, I am present in their everyday lives, and can’t put a price on that. I felt like I had achieved my goal. That was that. So I thought…

Other things started to happen. Without conscientiously knowing it, people around me at the school or church had a weird respect for me. I say weird because people literally mistook me as a doctor or just some sort of self-made millionaire. I am not kidding. There is this one guy who still calls me “Doc.” I guess the reason for this is because most people still cling to the old stereotypes of what they think it is in casual attire and never obsessing over time or my Blackberry. Now I have people nominating me for things like committee chair on the PTA, and just recently I was elected to the board of directors at our local swim/ tennis club. The cool thing is, I actually have the time to do those things and still be effective at work and at home. It goes without saying that new doors are open to me now. More than ever before.

With all of this going on around me I still come back to what my daughter said to her teacher. In truth, I am at a point where if I wanted to "sit around and watch *Star Wars* all day," I certainly could. But, I find myself filling the extra time now doing things that really mean something. Being present in the everyday lives of my family, helping my community, or volunteering at my church. Now I have a plan to take it to the next level and write my own book. The project I am working on is called *The Virtual Employee Handbook*. It is a collection of tips and how-to's on all the tools that are essential to the modern virtual employee, like me. We will see how that goes. One thing I do know is that I wouldn't even dream of what I am doing now if it wasn't for ***The 4-Hour Workweek!*** ***—W. HIGGINS***

91. Maya Frost, *The New Global Student* (Crown, 2009).

92. A simple, actual proposal is provided.

# RESTRICTED READING
## The Few That Matter

> A hypocrite is a person who—but who isn't?
>
> —DON MARQUIS

I know, I know. I said not to read too much. Hence, the recommendations here are restricted to the best of the best this book's interviewees and I have used and named when asked, "What is the one book that changed your life the most?"

None of them are required to do what we've talked about in this book. That said, consider them if you get stuck on a particular point. The page counts are listed, and if you practice the exercises in "How to Read 200% Faster in 10 Minutes" in Chapter 6, you should be able to read at least 2.5 pages per minute (100 pages thus equals 40 minutes).

For additional categories, including practical philosophy, licensing, and language learning, be sure to visit our comprehensive companion site.

## The Fundamental Four: Let Me Explain

The Fundamental Four are so named because they are the four books I recommended to aspiring lifestyle designers prior to writing *The 4-Hour Workweek*. Still well worth reading, here is the sequence I suggest:

***The Magic of Thinking Big*** (192 pages)

**BY DAVID SCHWARTZ**

This book was first recommended to me by Stephen Key, an ultrasuccessful inventor who has made millions licensing products to companies, including Disney, Nestlé, and Coca-Cola. It is the favorite book of many superperformers worldwide, ranging from legendary football coaches to famous CEOs, and has more than 100 5-star ratings on Amazon. The main message is don't overestimate others and underestimate yourself. I still read the first two chapters of this book whenever doubt creeps in.

***How to Make Millions with Your Ideas: An Entrepreneur's Guide*** (272 pages)

**BY DAN S. KENNEDY**

This is a menu of options for converting ideas into millions. I read this when I was in high school and have read it five times since. It is like steroids for your entrepreneurship cortex. The case studies, from Domino's Pizza to casinos and mail-order products, are outstanding, even if outdated in a few instances.

***The E-Myth Revisited: Why Most Small Businesses Don't Work and What to Do About It*** (288 pages)

**BY MICHAEL E. GERBER**

Gerber is a masterful storyteller and his classic of automation discusses how to use a franchise mind-set to create scalable businesses that are based on rules and not outstanding employees. It is an excellent road map—told in parable—for becoming an owner instead of constant micromanager. If you're stuck in your own business, this book will get you unstuck in no time.

***Vagabonding: An Uncommon Guide to the Art of Long-Term World Travel*** (224 pages)

**BY ROLF POTTS**

Rolf is the man. This is the book that got me to stop making excuses and pack for an extended hiatus. It covers bits of everything but is particularly helpful for determining your destination, adjusting to life on the road, and re-assimilating back into ordinary life. It includes great little excerpts from famous vagabonds, philosophers, and explorers, as well as anecdotes from ordinary travelers. This is the first of two books (the other was *Walden*, below) that I took with me on my first 15-month mini-retirement.

## Reducing Emotional and Material Baggage

***Walden*** (384 pages)

**BY HENRY DAVID THOREAU**

This is considered by many to be *the* masterpiece of reflective simple living. Thoreau lived on the edge of a small lake in rural Massachusetts for two years, building his own shelter and living alone, as an experiment in self-reliance and minimalism. It was both a huge success and a failure, which is what makes this book such a compelling read.

*Less Is More: The Art of Voluntary Poverty—An Anthology of Ancient and Modern Voices in Praise of Simplicity* (336 pages)

**EDITED BY GOLDIAN VANDENBROECK**

This is a collection of bite-sized philosophies on simple living. I read it to learn how to do the most with the least and eliminate artificial needs, not live like a monk—big difference. It incorporates actionable principles and short stories ranging from Socrates to Benjamin Franklin and the Bhagavad Gita to modern economists.

*The Monk and the Riddle: The Education of a Silicon Valley Entrepreneur* (192 pages)

**BY RANDY KOMISAR**

This great book was given to me by Professor Zschau as a graduation gift and introduced me to the phrase "deferred-life plan." Randy, a virtual CEO and partner at the legendary Kleiner Perkins, has been described as a "combined professional mentor, minister without portfolio, in-your-face investor, troubleshooter and door opener." Let a true Silicon Valley wizard show you how he created his ideal life using razor-sharp thinking and Buddhist-like philosophies. I've met him—he's the real deal.

*The 80/20 Principle: The Secret to Success by Achieving More with Less* (288 pages)

**BY RICHARD KOCH**

This book explores the "nonlinear" world, discusses the mathematical and historical support for the 80/20 Principle, and offers practical applications of the same.

## Muse Creation and Related Skills

*Harvard Business School Case Studies* **www.hbsp.harvard.edu (click on "school cases")**

One of the secrets behind Harvard Business School's teaching success is the case method—using real-life case studies for discussion. These cases take you inside the marketing and operational plans of 24-Hour Fitness, Southwest Airlines, Timberland, and hundreds of other companies. Few people realize that you can purchase these case studies for less than $10 apiece instead of spending more than $100,000 to go to Harvard (not that the latter isn't worth it). There is a case study for every situation, problem, and business model.

*"This business has legs": How I Used Infomercial Marketing to Create the $100,000,000 Thighmaster Craze: An Entrepreneurial Adventure Story* (206 pages)

**BY PETER BIELER**

This is the story of how a naïve (in the best sense of the word) Peter Bieler started from scratch—no product, no experience, no cash—and created a $100-million merchandising empire in less than two years. It is a mind-expanding and often hysterical case study that uses real numbers to discuss the fine points of everything from dealing with celebrities to marketing, production, legal, and retail. Peter can now finance the media purchases for your product: www.mediafunding.com.

*Secrets of Power Negotiating: Inside Secrets from a Master Negotiator* (256 pages)

**BY ROGER DAWSON**

This is the one negotiating book that really opened my eyes and gave me practical tools I could use immediately. I used the audio adaptation. If you're hungry for more, William Ury's *Getting Past No* and G. Richard Shell's *Bargaining for Advantage: Negotiation Strategies for Reasonable People* are outstanding. These are the only negotiating books you'll ever need.

***Response Magazine*** **(www.responsemagazine.com)**

This magazine is dedicated to the multibillion-dollar direct response (DR) industry, with a focus on television, radio, and Internet marketing. How-to articles (increasing sales per call, lowering media costs, improving fulfillment, etc.) are interspersed with case studies of successful campaigns (George Foreman Grill, *Girls Gone Wild*, etc.). The best outsourcers in the business also advertise in this magazine. This is an excellent resource at an excellent price—free.

***Jordan Whitney Greensheet*** **(www.jwgreensheet.com)**

This is an insider secret of the DR world. Jordan Whitney's weekly and monthly reports dissect the most successful product campaigns, including offers, pricing, guarantees, and ad frequencies (indicative of spending and, thus, profitability). The publication also maintains an up-to-date tape library from which infomercials and spot commercials can be purchased for competitive research. Highly recommended.

***Small Giants: Companies That Choose to Be Great Instead of Big*** (256 pages)

**BY BO BURLINGHAM**

Longtime *Inc*. magazine editor-at-large Bo Burlingham crafts a beautiful collage and analysis of companies that focus on being the best instead of growing like cancer into huge corporations. Companies include Clif Bar Inc., Anchor Stream Microbrewery, rock star Ani DiFranco's Righteous Babe Records, and a dozen more from different industries. Bigger is not better, and this book proves it.

## Negotiating World Travel and Preparing for Escape

***Six Months Off: How to Plan, Negotiate, and Take the Break You Need Without Burning Bridges or Going Broke*** (252 pages)

**BY HOPE DLUGOZIMA , JAMES SCOTT , AND DAVID SHARP**

This was the first book to make me step back and say, "Holy sh*t. I can actually do this!" It steamrolls over most fear factors related to long-term travel and offers a step-by-step guide to taking time off to travel or pursue other goals without giving up your career. Full of case studies and useful checklists.

***Verge Magazine*** **(http://vergemagazine.com)**

This magazine, formerly known as *Transitions Abroad*, is *the* central hub of alternative travel and offers dozens of incredible options for the non-tourist. Both the print and online versions are great starting points for brainstorming how you will spend your time overseas. How about excavating in Jordan or eco-volunteering in the Caribbean? It's all here.

From the website: "Each issue takes you around the world with people who are doing something different and making a difference doing it. This is the magazine resource for those wanting to volunteer, work, study, or adventure overseas."

# ► BONUS MATERIAL

This book is not just what you hold in your hands. There was much more I wanted to include but couldn't due to space constraints. Use passwords hidden in this book to access some of the best I have to offer. Here are just a few examples that took me years to assemble:

**How to Get $250,000 of Advertising for $10,000**
(includes real scripts)

**How to Learn Any Language in 3 Months**

**Muse Math: Predicting the Revenue of Any Product**
(includes case studies)

**Licensing: From Tae Bo to Teddy Ruxpin**

**Real Licensing Agreement with Real Dollars**
(this alone is worth $5,000)

**Online Round-the-World (RTW) Trip Planner**

For this and much more reader-only content, visit our companion site and free how-to message boards at www.fourhourblog.com. How would you like a free trip around the world? Join us and see how simple it is.

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# About the Author

TIMOTHY FERRISS, nominated as one of *Fast Company's* "Most Innovative Business People of 2007," is an angel investor and author of the #1 *New York Times, Wall Street Journal*, and *BusinessWeek* bestseller *The 4-Hour Workweek*, which has been sold into 35 languages.

He has been featured by more than 100 media outlets, including the *New York Times, The Economist, TIME, Forbes, Fortune*, CNN, and CBS. He speaks six languages, runs a multinational firm from wireless locations worldwide, and has been a popular guest lecturer at Princeton University since 2003, where he presents entrepreneurship as a tool for ideal lifestyle design and world change.

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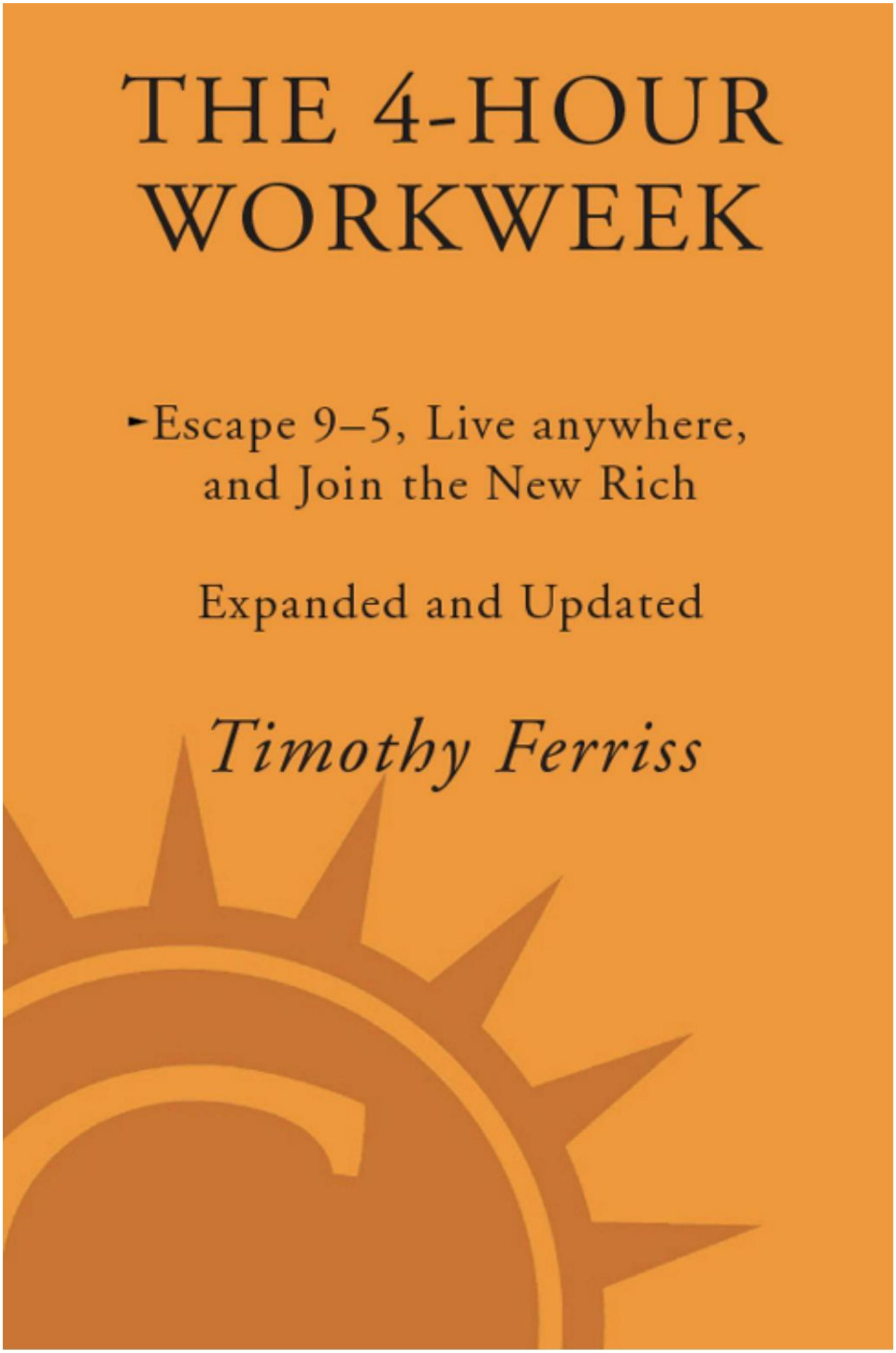

# THE 4-HOUR WORKWEEK

►Escape 9–5, Live anywhere,
and Join the New Rich

Expanded and Updated

*Timothy Ferriss*

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# Crime Victims' Rights During Criminal Investigations? Applying the Crime Victims' Rights Act Before Criminal Charges Are Filed

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# CRIME VICTIMS' RIGHTS DURING CRIMINAL INVESTIGATIONS?

# APPLYING THE CRIME VICTIMS' RIGHTS ACT BEFORE CRIMINAL CHARGES ARE FILED

**PAUL G. CASSELL***
**NATHANAEL J. MITCHELL**&**
**BRADLEY J. EDWARDS*****

*This Article addresses whether crime victims should have rights during criminal investigations, using the Crime Victims' Rights Act (CVRA) as the focal point for our discussion. This is a critical issue, as many criminal cases may never proceed to formal charging. If crime victims have no rights during criminal investigations, then many crime victims will never have any rights at all.*

*The issue of whether crime victims have rights in the criminal justice process recently came to a head when the Justice Department released a memorandum contending that the CVRA does not extend crime victims any rights until prosecutors choose to file formal criminal charges. This led the CVRA's Senate cosponsor, then-Senator Jon Kyl, to fire off an angry letter to the Justice Department attacking its position. In our Article, we side with the Act's cosponsor. We believe that, properly understood, the CVRA does extend crime victims' rights during criminal investigations.*

*Our Article proceeds in four parts. First, it highlights the importance of applying the Act before the formal filing of charges by illustrating how dozens of victims in a notorious federal sex abuse case were deprived of the*

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*ability to participate meaningfully in the criminal process when federal prosecutors narrowly interpreted their responsibilities under the Act. Second, the Article reviews the purpose, text, structure, and history of the CVRA, concluding that they all support the conclusion that crime victims have rights during criminal investigations. Third, our Article critiques the Department's memorandum, demonstrating that the Department's analysis is unpersuasive. Fourth and finally, the Article provides a specific approach for determining when rights should attach—specifically when federal law enforcement agencies have identified a crime with sufficient precision to send a "target" letter to a criminal defendant. We also observe that federal and state prosecutors have already accorded rights to victims before formally filing charges, which further undermines the Department's overly narrow construction of the Act.*

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## INTRODUCTION

In recent years, federal and state enactments have given crime victims extensive rights to participate in criminal cases. Many of these rights apply only after the filing of criminal charges, such as the victim's right to be heard during court proceedings. A crime victim's right to deliver an impact statement at sentencing, for instance, can only be exercised after a prosecutor has filed charges against a defendant and obtained a conviction. Other rights, however, can apply even before the formal filing of charges. As one example, the Crime Victims' Rights Act (CVRA)[1] extends to federal crime victims the right to "confer" with prosecutors. But can victims exercise this right before charges have been filed?

This question has tremendous practical importance. In many cases, prosecutors negotiate pleas well before any charges are ever drafted. If crime victims' rights enactments do not extend rights to victims until the formal filing of charges, then crime victims can be effectively excluded from the plea bargaining process. Yet the exclusion of victims in early stages of a criminal case affects more than just the content of a plea deal. Crime victims will also lose other important rights in the process if the formal filing of charges is the necessary trigger for those rights. If, for example, prosecutors work out a nonprosecution agreement with an offender, they need not notify his victims of what they are doing or of the fact that potential charges will never be filed.

The issue of pre-charging rights has most prominently surfaced in connection with federal cases. In 2010, the Department of Justice's Office of Legal Counsel (OLC) weighed in on the issue and released a legal opinion arguing that victims of federal crimes have no CVRA rights during a federal criminal investigation.[2] The Justice Department took the position that rights under the CVRA do not apply until prosecutors formally initiate criminal proceedings by filing a complaint, information, or indictment. The Department claims to find support for that limiting interpretation of the statute in its plain language and legislative history.

Shortly after the Department released its opinion, one of the CVRA's congressional sponsors, then-Senator Jon Kyl, sent a letter to Attorney General Eric Holder strenuously objecting to the Department's conclusions. Senator Kyl directly stated his view that "[w]hen Congress enacted the

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[1] Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act, Pub. L. No. 108-405, 118 Stat. 2260, 2261–65 (2004) (codified as amended at 18 U.S.C. § 3771 (2012) and 42 U.S.C. § 10603(d)–(e) (2006)).

[2] The Availability of Crime Victims' Rights Under the Crime Victims' Rights Act of 2004, 35 Op. O.L.C. 1 (Dec. 17, 2010) [hereinafter OLC CVRA Rights Memo], *available at* http://goo.gl/fHmCL4.

CVRA, it intended to protect crime victims throughout the criminal justice process—from the investigative phases to the final conclusion of a case."[3] Senator Kyl contested the Department's analysis of the statute and, in particular, its use of statements from him during Congress's consideration of the CVRA.

This Article sides with the CVRA's cosponsor and concludes that crime victims' CVRA rights attach before formal charging. Both the CVRA's plain language and its legislative history lead inexorably to this conclusion, as every court that has considered this issue has concluded. This Article also contends that, as a matter of sound public policy, crime victims should have rights before the formal filing of criminal charges.

This Article proceeds in four parts. Part I frames the issues under discussion by defending the importance of extending rights to crime victims during criminal investigations. Part I also provides background on victims' rights and gives a concrete illustration of a case in which the question of pre-charging rights for crime victims has arisen—specifically, the Jeffrey Epstein sex abuse case before a federal court in Florida. In that case, girls victimized by Epstein have argued that they should have been consulted about a federal nonprosecution agreement; Department attorneys have responded that because prosecutors never filed charges, government officials had no formal obligations to inform the girls.

Part II reviews the CVRA's purpose, text, structure, and legislative history. This review establishes that the CVRA extends rights to crime victims before formal charges are filed.

Part III critiques OLC's position that the CVRA extends rights to victims only after prosecutors have lodged charges in court. The Department's proffered arguments do not withstand close scrutiny, particularly in light of the fact that the CVRA covers federal agencies involved in the "detection" and "investigation" of crime,[4] and specifically authorizes crime victims to file CVRA motions in situations where "no prosecution is underway."[5]

Part IV then proposes a specific approach for determining when crime victims' CVRA rights attach. This Part explains that the rights should attach when federal law enforcement or prosecuting agencies have identified a federal crime and a particular victim with sufficient precision that they would send a "target" letter to a criminal defendant in similar circumstances. If prosecutors have sufficient information to provide notice to a potential criminal of his rights, they can do the same for his victims. This Part also notes that the Department of Justice and state prosecutors already successfully provide rights to victims before charging. This successful experience strongly suggests that providing rights to victims early in the criminal justice process will not be unduly burdensome.

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[3] Letter from Jon Kyl, U.S. Sen., to Eric H. Holder, Jr., Att'y Gen. (June 6, 2011), *reprinted in* 157 CONG. REC. S3608 (daily ed. June 8, 2011) (statement of Sen. Jon Kyl).

[4] 18 U.S.C. § 3771(c)(1).

[5] *Id.* § 3771(d)(3).

## I. THE ISSUE OF RIGHTS FOR CRIME VICTIMS DURING CRIMINAL INVESTIGATIONS

To consider the question of whether victims should have rights during criminal investigations, some understanding of the underlying purposes of victims' rights enactments will be useful. These enactments are typically designed to make victims participants in all phases of the criminal justice process.[6] Congress drafted the CVRA, for example, broadly to make crime victims participants in criminal cases. The Jeffrey Epstein sex abuse case demonstrates the importance of victim participation even before charges are filed.

### A. A BRIEF HISTORY OF CRIME VICTIMS' RIGHTS

The crime victims' rights movement has sought to make crime victims important participants in the criminal justice process. The movement began in the wake of the Warren Court revolution, which extended new rights to criminal defendants.[7] With the courts paying increasing attention to criminal defendants, crime victims' advocates began to argue that the victims themselves had been overlooked.[8] The movement gained great visibility in the early 1980s when President Ronald Reagan appointed the President's Task Force on Victims of Crime.[9] The Task Force published a report concluding that "the criminal justice system has lost an essential balance. . . . The victims of crime have been transformed into a group oppressively burdened by a system designed to protect them. This oppression must be redressed."[10]

The Task Force chronicled how crime victims were treated in all stages of the criminal justice process, from the police investigation through court proceedings, and ultimately to any parole or other release of the criminal. The Task Force then made a series of recommendations for all criminal justice agencies, including the police, prosecutors, and the courts.[11] The recommendations were designed to allow crime victims to receive information about, and to participate in, criminal cases.

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[6] *See* DOUGLAS E. BELOOF, PAUL G. CASSELL & STEVEN J. TWIST, VICTIMS IN CRIMINAL PROCEDURE 3–39 (3d ed. 2010) (describing reforms from a historical perspective); *see also, e.g.*, 18 U.S.C. § 3771(a) (2012).

[7] *See* BELOOF, CASSELL & TWIST, *supra* note 6, at 3–39 (describing the history of victims' rights in American law and the early days of the modern movement).

[8] *See, e.g.*, William F. McDonald, *Towards a Bicentennial Revolution in Criminal Justice: The Return of the Victim*, 13 AM. CRIM L. REV. 649, 651–55 (1976).

[9] Exec. Order 12,360, 47 Fed. Reg. 17,975 (Apr. 27, 1982); *see also* PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT, at ii (1982).

[10] PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT, *supra* note 9, at 114.

In its most far-reaching recommendation, the Task Force proposed amending the U.S. Constitution to protect victims' rights.[12] The proposed amendment would have built on existing constitutional rights for criminal defendants by extending similar rights to crime victims.[13]

After the publication of the report, crime victims' advocates secured the passage of a series of state constitutional and legislative reforms. These measures guaranteed victims' rights in the criminal process, such as the right to be notified of court proceedings, to attend those proceedings, and to speak at appropriate points in the process, such as plea bargaining and sentencing. The measures were embodied in state statutes and, in more than thirty states, state constitutional "bills of rights" for crime victims.[14] While many of the measures had narrow participatory rights,[15] some of the amendments also contained more open-ended language, promising victims a right to fair treatment "throughout the criminal justice process."[16]

After successfully passing many state constitutional amendments, crime victims' rights advocates sought to achieve the Task Force's broadest recommendation: to secure protection for victims' rights in the U.S. Constitution. In 1996, victims' advocates proposed a Victims' Rights Amendment in a Rose Garden ceremony attended by President Bill Clinton.[17] The proposed amendment contained a list of rights for crime victims, largely paralleling the rights contained in state victims' rights amendments.[18] Congress considered the amendment several times, but it never obtained the requisite two-thirds support in both houses to secure the Amendment's approval.[19] Critics quarreled not so much with the goals of the amendment but rather with the necessity of constitutionalizing such rights.[20]

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[11] *See id.* at 56–82.

[12] *Id.* at 114.

[13] *Id.* at 114–15.

[14] For a map depicting the states with (and without) such amendments, see *State Victim Rights Amendments*, NAT'L VICTIMS' CONSTITUTIONAL AMENDMENT PASSAGE, http://goo.gl/znI4YW (last visited Nov. 26, 2013); for discussion, see *infra* Part IV.D (discussing legislative reforms in a number of states).

[15] *See, e.g.*, CAL. CONST. art. I, § 28; MICH. CONST. art. I, § 24; N.C. CONST. art. I, § 37. For a detailed discussion of how one state constitutional amendment is intended to operate, see generally Paul G. Cassell, *Balancing the Scales of Justice: The Case for and the Effects of Utah's Victims' Rights Amendment*, 1994 UTAH L. REV. 1373.

[16] *E.g.*, ARIZ. CONST. art. II, § 2.1(A)(1); MICH. CONST. art. I, § 24(1); TEX. CONST. art. I, § 30(a)(1); *see* CAL. CONST. art. I, § 28(b)(1) ("throughout the criminal or juvenile justice process").

[17] John M. Broder, *Clinton Calls for Victims' Rights in Constitution*, L.A. TIMES, June 26, 1996, at A1. For detailed discussions of the legislative efforts, see Paul G. Cassell, *Recognizing Victims in the Federal Rules of Criminal Procedure: Proposed Amendments in Light of the Crime Victims' Rights Act*, 2005 BYU L. REV. 835, 847–50.

### B. THE CRIME VICTIMS' RIGHTS ACT

Unable to obtain the necessary supermajority to pass a federal constitutional amendment, in April 2004, crime victims' rights advocates decided to focus on federal legislation protecting crime victims. In exchange for backing off from their efforts to pass a constitutional amendment, crime victims' advocates received near-universal congressional support for a "broad and encompassing" statutory victims' bill of rights.[21] Victims' advocates sought to expand on the protections found in other previously-enacted victims' rights statutes, including, notably, the Victims' Rights and Restitution Act of 1990.[22] That statute had also included a bill of rights for crime victims, yet because of limited enforcement mechanisms, crime victims had been unable to secure court protection of the rights listed in the statute.[23]

The statute that Congress passed to solve these problems—the Crime Victims' Rights Act of 2004—gave victims "the right to participate in the system."[24] It extended broad rights to crime victims, including "[t]he right to be treated with fairness and with respect for the victim's dignity and privacy"[25] and "[t]he reasonable right to confer with the attorney for the Government in the case."[26] It also commanded that these rights must be afforded by the Justice Department "and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime."[27] The CVRA also contained specific enforcement mechanisms. The Act provided that rights can be "assert[ed]" by "[t]he crime victim or the crime victim's lawful representative, and the attorney for the Government . . . ."[28] The courts were also required under the Act to "ensure that the crime victim is afforded the rights" given by the law.[29]

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[18] *See* Cassell, *supra* note 17, at 848–49. For the pros and cons of the amendment as originally introduced, compare Paul G. Cassell, *Barbarians at the Gates? A Reply to the Critics of the Victims' Rights Amendment*, 1999 UTAH L. REV. 479 [hereinafter Cassell, *Barbarians at the Gates?*], and Steven J. Twist, *The Crime Victims' Rights Amendment and Two Good and Perfect Things*, 1999 UTAH L. REV. 369, with Robert P. Mosteller, *The Unnecessary Victims' Rights Amendment*, 1999 UTAH L. REV. 443. For a more recent discussion of a newer version of the amendment, see Paul G. Cassell, *The Victims' Rights Amendment: A Sympathetic, Clause-by-Clause Analysis*, 5 PHOENIX L. REV. 301 (2012).

[19] Hon. Jon Kyl et al., *On the Wings of Their Angels: The Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act*, 9 LEWIS & CLARK L. REV. 581, 588–91 (2005).

[20] *Proposed Constitutional Amendment to Protect Crime Victims*, *S.J. Res. 1: Hearing Before the S. Comm. on the Judiciary*, 108th Cong. 128–29 (2003) (statement of Sen. Patrick Leahy); *see also* Steven J. Twist & Daniel Seiden, *The Proposed Victims' Rights Amendment: A Brief Point/Counterpoint*, 5 PHOENIX L. REV. 341, 356, 378 (2012) (illustrating that the necessity dispute has endured to the present day).

[21] 150 CONG. REC. 7295 (2004) (statement of Sen. Dianne Feinstein); *see also* Kyl et al., *supra* note 19, at 591–93.

[22] Victims' Rights and Restitution Act of 1990, Pub. L. No. 101-647, 104 Stat. 4820 (codified as amended at 42 U.S.C. §§ 10601, 10606–07 (2006)).

[23] *See, e.g.*, United States v. McVeigh, 106 F.3d 325, 328 (10th Cir. 1997) (per curiam) (refusing to enforce a victim's right to attend a trial); Cassell, *Barbarians at the Gates?*, *supra* note 18, at 515–22 (discussing *McVeigh*).

Congress appeared to have at least two goals in mind in passing the CVRA. The first was simply to ensure that crime victims understood what was happening in the criminal justice process. This goal is apparent from the fact that the CVRA gives crime victims rights to notification about various court hearings, as well as more general rights to confer with prosecutors and to be treated with fairness.[30] The CVRA's Senate sponsors explained:

> In case after case we found victims, and their families, were ignored, cast aside, and treated as non-participants in a critical event in their lives. They were kept in the dark by prosecutors to[o] busy to care enough, by judges focused on [defendants'] rights, and by a court system that simply did not have a place for them.[31]

In passing the CVRA, Congress sought to change the system's obliviousness to crime victims that often "left crime victims and their families victimized yet again."[32]

A second overarching purpose of the CVRA was to allow crime victims to play a role in the criminal justice process. Through the CVRA, Congress intended to make victims "independent participant[s]" in the criminal justice process.[33] The CVRA extends to crime victims a series of "rights" in the criminal justice process—rights that the victims have independent standing to assert.[34] Congress viewed these provisions as establishing a victim's right "to participate in the process where the information that [victims] and their families can provide may be material and relevant . . . ."[35]

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[24] 150 CONG. REC. 7297; *see* 18 U.S.C. § 3771 (2012). For a description of victim participation, see BELOOF, CASSELL & TWIST, *supra* note 6, at 728–33.

[25] 18 U.S.C. § 3771(a)(8).

[26] *Id.* § 3771(a)(5).

[27] *Id.* § 3771(c)(1).

[28] *Id.* § 3771(d)(1).

[29] *Id.* § 3771(b)(1).

[30] *See id.* § 3771(a).

[31] 150 CONG. REC. 7296 (2004) (statement of Sen. Dianne Feinstein).

[32] *Id.*

[33] *Id.* at 7302 (statement of Sen. Jon Kyl).

Congress appears to have had both intrinsic and instrumental reasons for wanting crime victim participation. Congress clearly thought that such participation was valuable in its own right. Senator Kyl embodied this belief and explained his decision to become involved in the crime victims' rights movement because of his discovery that victims:

> were suffering through the trauma of the victimization and then being thrown into a system which they did not understand, which nobody was helping them with, and which literally prevented them from participation in any meaningful way. I came to realize there were literally millions of people out there being denied these basic rights . . . .[36]

But Congress also thought crime victim participation in the criminal justice system could be instrumentally useful. For example, in protecting a victim's right to be heard by those determining a defendant's sentence, a victim might be able to provide important information that could alter that sentence. As a result, the sentence might reflect a fuller appreciation of the danger posed by a defendant, and the judge might take appropriate steps to prevent others from being victimized.[37]

Congress also intended to ensure that crime victims were not revictimized in the criminal justice process—that is, that they would not suffer what scholars have called "secondary harm" in the process.[38] The concern is that victims suffer when they are excluded from the criminal justice process. Congress sought to end that suffering by making victims meaningful participants in criminal cases.[39]

### C. AN ILLUSTRATION OF THE PRE-CHARGING ISSUE: THE JEFFREY EPSTEIN CASE

Given the potentially expansive scope of victims' rights under both state provisions and the CVRA, a critical question arises about how to apply them: Do the rights come into existence only after prosecutors formally file criminal charges? Or do they attach at some earlier point in the process? *Does v. United States*, a federal case in the U.S. District Court for the Southern District of Florida, usefully illustrates the issue.[40] In that case, the U.S. Attorney's Office for the Southern District of Florida developed considerable evidence that Jeffrey Epstein, a billionaire with extensive political and social connections,[41] had sexually molested more than thirty young girls between 2001 and 2007 at his West Palm Beach mansion.[42] The U.S. Attorney's Office entered into contentious plea negotiations with Epstein over how the case should be resolved. The prosecutors initially sought a resolution that would have required Epstein to plead guilty to at least a felony sex offense. After pressure from Epstein, for reasons that have never been clearly explained,[43] the U.S. Attorney's Office agreed to enter into a nonprosecution agreement. Under the agreement, the U.S. Attorney's Office agreed not to prosecute him and, in exchange, Epstein agreed to plead guilty to two state felonies for soliciting prostitution with a minor. After entering those guilty pleas, Epstein was sentenced to only eighteen months in state jail.[44] No federal charges were ever filed and

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[34] *Compare* 18 U.S.C. § 3771(d), *with* Susan Bandes, *Victim Standing*, 1999 UTAH L. REV. 331, 344–45 (illustrating the debate surrounding victim standing prior to adoption of the CVRA).

[35] 150 CONG. REC. 7296 (statement of Sen. Dianne Feinstein).

[36] *Id.* at 7298 (statement of Sen. Jon Kyl).

[37] *Id.*

[38] *See, e.g.*, Douglas Evan Beloof, *The Third Model of Criminal Process: The Victim Participation Model*, 1999 UTAH L. REV. 289, 294–96; Richard A. Bierschbach, *Allocution and the Purposes of Victim Participation Under the CVRA*, 19 FED. SENT'G REP. 44, 46 (2006).

[39] 150 CONG. REC. 7298 (statement of Sen. Jon Kyl).

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[40] Does v. United States, 817 F. Supp. 2d 1337 (S.D. Fla. 2011). In the interest of full disclosure, two of the authors of this Article (Cassell and Edwards) are co-counsel for the victims in this case. The statement of the facts in this Article draws heavily on the victims' allegations as they have detailed in their pending motion for summary judgment in the case. *See* Jane Doe #1 & Jane Doe #2's Motion for Finding of Violations of the Crime Victims' Rights Act and Request for a Hearing on Appropriate Remedies at 3–23, *Does*, 817 F. Supp. 2d 1337 (No. 9:08-cv-80736-KAM) [hereinafter Jane Doe Motion] (providing fifty-three proposed facts in the case). The U.S. Attorney's Office has generally disputed some of these allegations without offering specifics as to what happened. *See, e.g.*, United States' Response to Jane Doe #1 & Jane Doe #2's Motion for Finding of Violations of the Crime Victim Rights Act and Request for a Hearing on Appropriate Remedies at 34–43, *Does*, 817 F. Supp. 2d 1337 (No. 9:08-cv-80736-KAM) [hereinafter United States' Response]. As of this writing, Epstein has declined to intervene in the case to dispute the allegations.

[41] *See, e.g.*, Paul Harris, *Prince Andrew's Link to Sex Offender Jeffrey Epstein Taints Royalty in US*, GUARDIAN (Mar. 12, 2011), http://goo.gl/0I4vAE; Landon Thomas Jr., *Jeffrey Epstein: International Moneyman of Mystery*, N.Y. MAG., http://goo.gl/11Cayc (last visited Nov. 26, 2013).

[42] *See* Jane Doe Motion, *supra* note 40, at 3–4; Abby Goodnough, *Questions of Preferential Treatment Are Raised in Florida Sex Case*, N.Y. TIMES, Sept. 3, 2006, at A19.

[43] The U.S. Attorney responsible for the plea deal later revealed that after negotiations started, "[w]hat followed was a year-long assault on the prosecution and the prosecutors" by Epstein. Letter from R. Alexander Acosta, former U.S. Att'y, to Whom It May Concern (Mar. 20, 2011), *reprinted in* Conchita Sarnoff, *Behind Pedophile Jeffrey Epstein's Sweetheart Deal*, DAILY BEAST (Mar. 25, 2011, 3:17 AM), http://goo.gl/kyveiF. Acosta, however, claimed that the pressure did not influence the ultimate disposition of the case. *Id.*

[44] Landon Thomas Jr., *From Paradise to County Jail: A Billionaire Financial Adviser Will Serve 18 Months in Sex Case*, N.Y. TIMES, July 1, 2008, at C1.

Epstein spent much of the jail term on "work release" to his luxurious office.[45]

The U.S. Attorney's Office did not tell Epstein's victims about the nonprosecution agreement until well after it had taken effect. To the contrary, even after the nonprosecution agreement had been signed, the Office continued to tell the victims that the case was still "under investigation" and that they should be "patien[t]."[46] When the victims learned of the agreement, two of them (Jane Doe Number One and Jane Doe Number Two) filed suit in federal court under the Crime Victims' Rights Act, arguing that the prosecutors had violated their CVRA right to confer as well as their right to be treated fairly.[47] The victims contended that prosecutors should have conferred with them about the nonprosecution agreement before it became final.

In response, the U.S. Attorney's Office argued primarily that it was under no obligation to extend the victims any rights under the CVRA. It was the Government's blunt position that "CVRA rights do not attach in the absence of federal criminal charges filed by a federal prosecutor."[48] In short, the Government argued it was not required to confer in any way with the victims, or even treat them fairly, because the CVRA was not yet in play. The issue is thus squarely framed: Is the Government correct in its assertion that it has no CVRA obligations in cases like the Epstein case where federal prosecutors never lodged federal charges against a suspect? In view of the CVRA's prominence, resolution of this issue may shed important light on the nature of crime victims' enactments and the breadth of the role that crime victims should have in the criminal justice process.

## II. THE CVRA'S APPLICATION BEFORE FORMAL CHARGES ARE FILED

To analyze the issue of whether the CVRA extends rights to crime victims before prosecutors have formally filed charges, it is useful to look at the CVRA's purposes, language, and judicial interpretations. This Part looks at each of these three issues in turn.

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[45] *See* Michele Dargan, *Feds Say They Treated Epstein Victims Fairly*, PALM BEACH DAILY NEWS (Apr. 8, 2011, 7:23 PM), http://goo.gl/rTGDed; Conchita Sarnoff, *Billionaire Pedophile Goes Free*, DAILY BEAST (July 20, 2010, 7:05 PM), http://goo.gl/MSTi17.

[46] *See* Jane Doe Motion, *supra* note 40, at 14, 16 (internal quotation marks and citations omitted).

[47] *See* Emergency Victim's Petition for Enforcement of Crime Victim's Rights Act, 18 U.S.C. Section 3771 at 2, Does v. United States, 817 F. Supp. 2d 1337 (S.D. Fla. 2011) (No. 9:08-cv-80736-KAM).

[48] United States' Response, *supra* note 40, at 7.

### A. THE CVRA'S PURPOSES

An analysis of the CVRA's application before prosecutors have filed charges must begin by assessing the CVRA's purposes because any interpretation of the CVRA that is divorced from the statute's purposes would run the risk of defeating the statute's aims. It is axiomatic that courts should "give faithful meaning to the language Congress adopted in the light of the evident legislative purpose in enacting the law in question."[49]

As discussed above,[50] one important goal of the CVRA was to keep crime victims informed about any developments in the criminal justice process. But the need to be informed does not begin with the filing of a formal criminal charge. A crime victim needs to know what is happening before formal charging—during a criminal investigation, for example—just as much as she needs to know what is happening in court. Indeed, she may have a greater need to know, as she may be concerned that the criminal who harmed her is still on the loose, posing a danger to her.

Similarly, concerning the second purpose—facilitating victim participation[51]—without a right to pre-charging involvement, victims may be effectively shut out of the process entirely. The Epstein case provides a useful illustration of why the CVRA must be understood to extend rights to victims prior to indictment. The prosecutors handling the investigation reached an agreement with Epstein that barred federal prosecution of sex offenses committed against dozens of victims, including Jane Doe Number One and Jane Doe Number Two. If CVRA rights did not extend to the negotiations surrounding the agreement, then the victims *never* would have had any ability to participate in the resolution of the case.[52]

A construction of the CVRA that extends rights to victims before charges are filed would be entirely consistent with the CVRA's participatory purpose. If victims have the ability to participate in a pre-charging plea bargaining process, for example, victims can help ensure that prosecutors do not overlook anything that should be covered in the plea deal. For example, victims might be able to obtain agreement to a "no contact" order or valuable restitution—points that the prosecutor might fail to consider in crafting a plea. Similarly, allowing victims to participate early in the process avoids retraumatizing victims. Again, as the Epstein case usefully illustrates, it may be extremely difficult for victims to discover after the fact that potential criminal charges against a criminal who has abused them have been secretly bargained away. Jane Doe Number One and Jane Doe Number Two, for example, were outraged when they discovered prosecutors had entered into an agreement blocking any prosecution of sex offenses Epstein committed against them—and all without telling them.[53]

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[49] Graham Cnty. Soil & Water Conservation Dist. v. United States *ex rel.* Wilson, 130 S. Ct. 1396, 1409 (2010) (quoting United States v. Bornstein, 423 U.S. 303, 310 (1976)) (internal quotation marks omitted).

[50] *See supra* notes 24–27.

[51] *See supra* notes 28–29.

[52] Even the Justice Department seems to recognize this point. As a matter of policy, the Department extends to victims the right to confer with prosecutors in situations where plea discussions occur before charges have been brought. U.S. DEP'T OF JUSTICE, OFFICE FOR VICTIMS OF CRIME, ATTORNEY GENERAL GUIDELINES FOR VICTIM AND WITNESS ASSISTANCE 41–42 (2011 ed., rev. May 2012) [hereinafter ATTORNEY GENERAL GUIDELINES].

In short, the purposes animating the CVRA all suggest that the Act was meant to, and should, extend rights to crime victims before formal charges are filed.

### B. THE CVRA'S PLAIN LANGUAGE

While the general purposes of the CVRA support a broad interpretation of the Act, it is important to examine whether those purposes have been expressed in the Act's language. Without a linkage to the Act's text, the general purpose might not provide a sound basis for interpretation.[54] But the CVRA's plain language makes clear that Congress intended for the law to provide at least some rights to crime victims throughout the criminal justice process, even before the filing of criminal charges.

According to its text, the CVRA provides eight specifically enumerated rights for crime victims and an additional right to be reasonably notified of these rights.[55] Some of these rights presuppose the formal filing of criminal charges. For instance, the CVRA extends to victims the "right to reasonable, accurate, and timely notice of any public court proceeding."[56] That particular right obviously does not apply before charges are filed, as no "court proceedings" exist before a defendant is charged.

But the CVRA also promises crime victims rights that are not specifically tied to court proceedings. Perhaps most expansively, the CVRA guarantees victims the "right to be treated with fairness and with respect for the victim's dignity and privacy,"[57] a broad right that does not appear to be directly linked to a filed court case. Similarly, the CVRA promises victims the "reasonable right to confer with the attorney for the Government *in the case*."[58] In this section, the CVRA's drafters appear to have eschewed a reference to court proceedings, using a broader term instead. Of course, a "case" can refer both to a judicial case before a court and an investigative case pursued by a law enforcement officer. It is common usage to say such things as, "The police officer investigated and solved the case." Dictionary definitions of the word "case" support this varied interpretation.[59]

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[53] Without disclosing confidential attorney–client communications, this fact is readily apparent from victims' filings in the Epstein case. *See, e.g.*, Jane Doe Motion, *supra* note 40, at 17 (stating that the victims relied on the U.S. Attorney's Office representatives "to their detriment[,]" that if they knew the true facts, "they would have taken steps to object" to the plea agreement, and that they believed criminal prosecution to be "extremely important").

[54] *See* ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 56 (2012).

[55] 18 U.S.C. § 3771(a) (2012) (enumerating eight rights); *id.* § 3771(c)(1) (requiring government officers use "their best efforts" to notify victims of their rights).

[56] *Id.* § 3771(a)(2).

If there remained any doubts about whether the CVRA applies during the investigative part of the criminal justice process, two other provisions in the CVRA resolve them. The CVRA specifically directs that "[o]fficers and employees of the Department of Justice and other departments and agencies of the United States engaged in the *detection*, *investigation*, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in [the CVRA]."[60] Of course, there would be no reason to direct that agencies involved in the "detection" and "investigation" of crime have CVRA obligations if the Act did not extend to pre-charging situations. Congress thus directly envisioned the victims' rights law to apply during the "detection" and "investigation" phases of criminal cases.

Similarly, the CVRA's venue provision instructs that crime victims who seek to assert rights in pre-charging situations should proceed in the court where the crime was committed: "The rights described in subsection (a) [of the CVRA] shall be asserted in the district court in which a defendant is being prosecuted for the crime or, *if no prosecution is underway*, in the district court in the district in which the crime occurred."[61] Here again, it is hard to see why this provision would be necessary unless the CVRA applies before the formal filing of charges.

For all these reasons, the CVRA's plain language indicates that the victims have protected rights under the Act even before charges are filed.

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[57] *Id.* § 3771(a)(8).

[58] *Id.* § 3771(a)(5) (emphasis added).

[59] *See, e.g.*, BLACK'S LAW DICTIONARY 243–44 (9th ed. 2009) (defining, among the definitions of "case," a "test case" as "[a] criminal investigation" as in "the Manson case"); WEBSTER'S THIRD NEW INTERNATIONAL DICTIONARY OF THE ENGLISH LANGUAGE UNABRIDGED 345 (1993) (defining "case" as "a circumstance or situation (as a crime) requiring investigation or action by the police or other agency").

[60] 18 U.S.C. § 3771(c)(1) (emphasis added).

[61] *Id.* § 3771(d)(3) (emphasis added).

### C. COURTS RECOGNIZE THAT CRIME VICTIMS HAVE CVRA RIGHTS BEFORE CHARGING

Because crime victims lack a right to appointed counsel, many victims have difficulty litigating the scope of their rights.[62] But in a few cases, victims have been able to secure counsel to argue that they have rights in the criminal justice process during the investigation of federal crimes. When those cases have reached the issue of whether the CVRA applies before charges have been filed, courts have uniformly agreed with the victims' position.

Perhaps the leading case to date to assess this question is the Fifth Circuit's decision in *In re Dean*.[63] There, a wealthy corporate criminal defendant reached a generous plea deal with the Government—a deal that the Government filed for approval with the district court without conferring with the victims. Citing procedural rights under the CVRA, the victims requested that the trial court reject the plea agreement.[64] The District Court for the Southern District of Texas specifically concluded that victims' CVRA rights could apply during the investigation of the crime: "There are clearly rights under the CVRA that apply before any prosecution is underway."[65] The district court concluded, however, that the Government had not violated the CVRA because it had secured judicial permission to dispense with notification to victims.[66]

The victims sought appellate review in the Fifth Circuit.[67] There, the court concurred with the district court that CVRA rights apply before trial. Unlike the district court, however, it held that the Government had violated the victims' rights:

> The district court acknowledged that "[t]here are clearly rights under the CVRA that apply before any prosecution is underway." Logically, this includes the CVRA's establishment of victims' "reasonable right to confer with the attorney for the Government." At least in the posture of this case (and we do not speculate on the

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[62] John W. Gillis & Douglas E. Beloof, *The Next Step for a Maturing Victim Rights Movement: Enforcing Crime Victim Rights in the Courts*, 33 McGeorge L. Rev. 689, 693 (2002).

[63] 527 F.3d 391 (5th Cir. 2008). Other aspects of the case are discussed in Paul G. Cassell & Steven Joffee, *The Crime Victims' Expanding Role in a System of Public Prosecution: A Response to the Critics of the Crime Victims' Rights Act*, 105 Nw. U. L. Rev. Colloquy 164, 172–76 (2011).

[64] *In re Dean*, 527 F.3d at 392.

[65] United States v. BP Prods. N. Am. Inc., No. H-07-434, 2008 WL 501321, at *11 (S.D. Tex. Feb. 21, 2008).

[66] *Id.* at *1, *19.

[67] For discussion of the difficulties crime victims face to obtain appellate review of their claims, see generally Paul G. Cassell, *Protecting Crime Victims in Federal Appellate Courts: The Need to Broadly Construe the Crime Victims' Rights Act's Mandamus Provision*, 87 Denv. U. L. Rev. 599 (2010).

> applicability to other situations), the government should have fashioned a reasonable way to inform the victims of the likelihood of criminal charges and to ascertain the victims' views on the possible details of a plea bargain.[68]

The Fifth Circuit then remanded the matter to the district court to determine the appropriate remedy for the violation of the victims' rights.[69]

The Fifth Circuit's decision in *Dean* has been cited favorably in four recent district court decisions, which provides further support for the conclusion that the CVRA applies before charges have been filed. In *United States v. Rubin*,[70] victims of a federal securities fraud argued that they had CVRA rights even before prosecutors filed a superseding indictment covering the specific crimes affecting the victims. Citing *Dean*, the District Court for the Eastern District of New York agreed that the rights were expansive and could apply before charges were filed but were subject to the outer limit that the Government has at least "contemplated" charges.[71]

Similarly, in *United States v. Oakum*,[72] the District Court for the Eastern District of Virginia considered a claim that CVRA rights did not apply until after a defendant had been convicted. In rejecting that argument, the court agreed with the *Dean* court that victims acquire rights even before a prosecution begins.[73]

The District Court for the Northern District of Indiana held to the same effect in *In re Petersen*.[74] There, the court held that a victim's right to be treated with fairness and with respect for [his or her] dignity and privacy "may apply before any prosecution is underway and isn't necessarily tied to a 'court proceeding' or 'case.'"[75] The court, however, found that the "conclusory allegations" in the victims' petition did not "create a plausible claim for relief under the CVRA."[76]

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[68] *In re Dean*, 527 F.3d at 394 (internal citations omitted).

[69] *Id.* at 396. On remand, the district court held additional hearings in which the victims participated, satisfying their CVRA rights. *See* United States v. BP Prods. N. Am. Inc., 610 F. Supp. 2d 655, 660 (S.D. Tex. 2009).

[70] 558 F. Supp. 2d 411 (E.D.N.Y. 2008).

[71] *Id.* at 419 (internal citation omitted). *Rubin*'s suggestion about limitations that apply to pre-indictment assertions of rights is discussed at notes 184–187 and 193 *infra* and accompanying text.

[72] No. 3:08cr132, 2009 WL 790042 (E.D. Va. Mar. 24, 2009).

[73] *Id.* at *2.

[74] No. 2:10-CV-298 RM, 2010 WL 5108692 (N.D. Ind. Dec. 8, 2010).

[75] *Id.* at *2 (citing *In re* Dean, 527 F.3d 391, 394 (5th Cir. 2008); United States v. BP Prods. N. Am. Inc., H-07-434, 2008 WL 501321 (S.D. Tex. Feb. 21, 2008)).

[76] *Id.* *Petersen* also held that one specific CVRA right—the right to confer—only applies after charges have been filed. *Id.* But the authorities *Petersen* cites for that proposition prove no such thing. Confusingly, *Petersen* cited the Fifth Circuit's ruling in

Perhaps the most extensive discussion of this issue has come from the Epstein case discussed earlier.[77] Overruling the Government's argument that the CVRA only applies after the formal filing of charges, *Does v. United States* held that "the statutory language clearly contemplates pre-charge proceedings."[78] The court in *Does* explained that "[c]ourt proceedings involving the crime are not limited to post-complaint or post-indictment proceedings, but can also include initial appearances and bond hearings, both of which can take place before a formal charge."[79] The court also noted that the CVRA's "requirement that officials engaged in 'detection [or] investigation' [of crimes] afford victims the rights enumerated in subsection (a) surely contemplates pre-charge application of the CVRA."[80] Finally, the court in *Does* noted that "[i]f the CVRA's rights may be enforced before a prosecution is underway, then, to avoid a strained reading of the statute, those rights must attach before a complaint or indictment formally charges the defendant with the crime."[81]

In sum, the relevant case law unanimously agrees that the CVRA extends rights to crime victims before charges have been filed.

## III. THE JUSTICE DEPARTMENT'S UNPERSUASIVE POSITION

Despite the CVRA's broad remedial purposes, its expansive language referring to investigations, and the unanimous case law extending rights to victims prior to defendants being charged, the OLC released a memorandum in 2011 concluding that CVRA rights attach only "from the time that criminal proceedings are initiated (by complaint, information, or indictment)."[82] OLC's analysis is unpersuasive. Although OLC's opinion

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*Dean* for support; but (as just explained above) *Dean* held exactly the opposite. Similarly, *Petersen* cites other cases involving the right to confer after charges have been filed. *Id.* But none of these cases actually presented the issue of the CVRA's application to pre-indictment situations, since charges had already been filed in each of these cases. *See, e.g.*, *In re* Stewart, 552 F.3d 1285, 1289 (11th Cir. 2008).

[77] Does v. United States, 817 F. Supp. 2d 1337 (S.D. Fla. 2011).

[78] *Id.* at 1341.

[79] *Id.*

[80] *Id.* at 1342.

[81] *Id.* Recently, the district court in the *Does* case also rejected Government efforts to dismiss the action. The district court found that, if the victims could prove the factual allegations they have made, then they would be entitled to relief, including potentially the relief of invalidating the nonprosecution agreement that Epstein obtained from the Government. Does v. United States, No. 9:08-cv-80736-KAM, 2013 WL 3089046, at *3 (S.D. Fla. June 19, 2013).

[82] OLC CVRA Rights Memo, *supra* note 2, at 1. Although the opinion is dated December 17, 2010, it was publicly released on May 20, 2011. *See* Letter from Jon Kyl, *supra* note 3.

invokes the CVRA's definition of crime "victim," its legislative intent, and its structure, a closer reading of each demonstrates little support for the notion that crime victims must await the formal filing of charges before accruing CVRA rights.

### A. OLC'S MISREADING OF THE CVRA'S DEFINITION OF "VICTIM"

OLC's lead argument is that the CVRA's definition of "victim" presupposes that criminal charges have been formally filed.[83] The CVRA defines a "victim" who is protected as "a person directly and proximately harmed as a result of the commission of a Federal *offense*."[84] Focusing on the word "offense," OLC concedes that it does not "conclusively resolve" the question of when rights attach. Nevertheless, OLC claims that the word "naturally suggests that a person's status as a 'crime victim' can only be determined after there has been a formal decision to charge a defendant with a particular Federal offense."[85] OLC goes on to elaborate:

> Under this reading, the earliest that a "crime victim" under the Act could be identified would be upon the filing of a criminal complaint—that is, at the earliest point at which there is a sworn written statement of probable cause to believe that a particular defendant committed an identified Federal offense and hence the first point at which it is possible with any certainty to identify a "crime victim" directly and proximately harmed by the commission of that offense.[86]

OLC is disingenuous in asserting that the "first point" at which a person has been harmed by a federal crime arises only after a criminal complaint has been filed. The Department routinely makes such determinations at earlier points in criminal cases, such as when it sends a "target letter" to a defense attorney during a grand jury investigation.[87] Indeed, OLC remarkably ignores the fact that the Department is directly *required* to identify victims of a crime before the filing of a criminal complaint, both by statute and through internal policy directives.

The Victims' Rights and Restitution Act of 1990 (VRRA)[88] requires the Department to identify victims before the filing of a criminal complaint.

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[83] OLC CVRA Rights Memo, *supra* note 2, at 6.

[84] 18 U.S.C. § 3771(e) (2012) (emphasis added).

[85] OLC CVRA Rights Memo, *supra* note 2, at 5.

[86] *Id.*

[87] A target letter explains the procedural process underlying an indictment and places the defendant on notice of the general nature of the government's criminal investigation. *See* U.S. DEP'T OF JUSTICE, TITLE 9: U.S. ATTORNEYS' CRIMINAL RESOURCE MANUAL § 160, [hereinafter CRIMINAL RESOURCE MANUAL] *available at* http://goo.gl/YHLDke (providing an example target letter); *infra* Part III.A (developing this point further).

[88] Pub. L. No. 101-647, 104 Stat. 4820 (codified as amended at 42 U.S.C. §§ 10601, 10606–07 (2006)).

Passed in 1990, the VRRA provided crime victims with a set of procedural rights similar to those found in the CVRA, along with rights to notification about victim services.[89] In 2004, the CVRA repealed and replaced the section of the VRRA listing procedural rights, while leaving other parts of the VRRA intact.[90] Under the remaining parts of the VRRA, the Justice Department must inform victims of federal crimes of services that are available to them, including "emergency medical and social services," counseling, and support.[91] The Department is further obligated to keep victims fully informed about "the status of the investigation of the crime, to the extent it is appropriate to inform the victim and to the extent that it will not interfere with the investigation."[92] These rights to notice about "emergency medical and social services"[93] as well as to the "status of the investigation of the crime"[94] obviously require the Department to identify victims of federal crimes before formal charges have been filed. Indeed, the VRRA makes this point clear by directing the Department to not only notify the victim about the status of the investigation but also about the later "filing of charges against a suspected offender."[95] The VRRA then extends victims' rights to information through the rest of the criminal justice process by requiring the Department to provide notice to victims of such things as the imposed sentence and the defendant's release.[96]

The VRRA not only requires the Department to identify victims during the investigation of a crime, it also defines those victims in a very similar fashion to the CVRA. The VRRA defines "victim" as a "person that has suffered direct physical, emotional, or pecuniary harm as a result of the commission of a crime."[97] Thus, the Department is already routinely identifying persons who have been "harmed" by federal crimes shortly after the commission of those crimes and well before formal charging.

The Attorney General has also promulgated internal guidelines requiring Justice Department components to identify victims rapidly after a crime. The *Attorney General Guidelines for Victim and Witness Assistance* provide that "Department responsibilities to crime victims begin as soon as possible after the detection of a crime at which they may be undertaken without interfering in the investigation. Generally, this point in time is defined by the opening of a criminal investigation."[98]

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[89] *See supra* notes 22–23 and accompanying text.

[90] Justice for All Act of 2004, Pub. L. No. 108-405, § 102(a), 118 Stat. 2260, 2261 (2004) (codified at 18 U.S.C. § 3771(a) (2012)).

[91] *See* 42 U.S.C. § 10607(c).

[92] *Id.* § 10607(c)(3)(A).

[93] *Id.* § 10607(c)(1)(A).

[94] *Id.* § 10607(c)(3)(A).

[95] *Id.* § 10607(c)(3)(C).

[96] *Id.* § 10607(c)(3)(G).

[97] *Id.* § 10607(e)(2).

Given the way the two statutes work, it would make no sense to artificially confine the CVRA's reach until after the filing of a criminal complaint. Before then, victims will have often received information from the Department about the status of the investigation. They might wish to confer with prosecutors about how the case is proceeding, and the CVRA extends to them a right to confer.[99] Similarly, while the Department is notifying victims about the services they may receive and the status of an investigation, it is important that the victims be treated fairly. The CVRA extends the right to be treated fairly.[100] Indeed, it would be absurd to think that Congress wanted to permit the Justice Department to treat crime victims unfairly until criminal charges have been filed.

Instead of recognizing Congress's intent, OLC's 2011 memorandum simply cites to a series of cases in which courts concluded that a victim of uncharged conduct should not be afforded statutory protections.[101] Yet none of these cases—*United States v. Turner*,[102] *Searcy v. Paletz*,[103] or *Searcy v. Skinner*[104]—provide strong support for OLC's position. *Turner* is a particularly poor fit. Although OLC's memorandum characterizes *Turner* as excluding victims of uncharged conduct,[105] the magistrate judge adopted an inclusive reading of the statute precisely because of his reservations about the CVRA's legislative history and plain language. The judge suggested that "any person who self-identifies as [a victim]" could be presumed to qualify for protection under the CVRA as a preliminary matter.[106] In fact, the line quoted by the Department is lifted out of context. The full sentence reads: "While the offense charged against a defendant can serve as a basis for identifying a 'crime victim' as defined in the CVRA, the class of victims with statutory rights may well be broader."[107]

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[98] ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 7 (internal citations omitted); *see also* 42 U.S.C. § 10607(b).

[99] 18 U.S.C. § 3771(a)(5) (2012) (preserving "[t]he reasonable right to confer with the attorney for the Government in the case").

[100] *Id.* § 3771(a)(8) (preserving "[t]he right to be treated with fairness and with respect for the victim's dignity and privacy").

[101] OLC CVRA Rights Memo, *supra* note 2, at 6 n.6.

[102] 367 F. Supp. 2d 319 (E.D.N.Y. 2005).

[103] No. 6:07-1389-GRA-WMC, 2007 WL 1875802 (D.S.C. June 27, 2007).

[104] No. 6:06-1418-GRA-WMC, 2006 WL 1677177 (D.S.C. June 16, 2006).

[105] OLC CVRA Rights Memo, *supra* note 2, at 6 n.6.

[106] *Turner*, 367 F. Supp. 2d at 327 ("Instead, I have taken and will continue to follow an inclusive approach: absent an affirmative reason to think otherwise, I will presume that any person whom the government asserts was harmed by conduct attributed to a defendant, as well as any person who self-identifies as such, enjoys all of the procedural and substantive rights set forth in § 3771.").

*Paletz* and *Skinner* similarly provide scant support for the Department's position. In *Skinner*, a prison inmate attempted to bring a pro se *civil* suit against another inmate for allegedly attacking him during incarceration.[108] In dismissing the suit in an unpublished decision, the district court recognized that the Government had expressly declined to bring charges against the other inmate and concluded that the CVRA did not create a "mechanism to bring an action against Defendant directly."[109] In *Paletz*, that same inmate brought a similar pro se claim against another inmate, the Federal Bureau of Prisons, the FBI, and the U.S. Attorney General.[110] In a parallel, unpublished decision, the district court dismissed the suit, noting that the CVRA is designed to give victims certain rights "within the prosecutorial process against a criminal defendant."[111]

Because *Skinner* and *Paletz* involve (apparently frivolous) *civil* suits, they say nothing about the CVRA's reach in criminal cases, and any language to that effect would be pure dicta. Moreover, the courts' terse analysis in both cases does not contain any substantive discussion of whether CVRA rights apply in criminal cases before the filing of charges. Instead, the courts simply cited to language from a Second Circuit decision that stated that the CVRA does not give victims any rights against defendants until those defendants have been convicted[112]—a holding clearly limited to restitution, as many other CVRA rights clearly apply before conviction.[113] Reviewing these two cases in an extended, published opinion, the U.S. District Court for the Southern District of Texas noted that reading these two decisions as standing for the proposition that charges must be filed for CVRA rights to attach "appears inconsistent with the CVRA recognition of certain subsection (a) rights that apply during investigation, before any charging instrument is filed."[114] As a result, OLC vastly overstates its position when it asserts that "most courts . . . have declined to extend enforceable rights under the CVRA to alleged victims of conduct that did not lead to criminal proceedings."[115] All the courts that have actually reached the issue have concluded exactly the opposite.[116]

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[107] *Id.* at 326.

[108] *Skinner*, 2006 WL 1677177, at *1–2.

[109] *Id.* at *2.

[110] Searcy v. Paletz, No. 6:07-1389-GRA-WMC, 2007 WL 1875802, at *1–2 (D.S.C. June 27, 2007).

[111] *Id.* at *2.

[112] *Id.* ("However, 'the CVRA does not grant victims any rights against individuals who have not been convicted of a crime.'" (quoting *In re* W.R. Huff Asset Mgmt. Co., 409 F.3d 555, 564 (2d Cir. 2005))).

[113] Of course, a defendant cannot be ordered to pay restitution as part of his sentence until he has been found guilty. *See* 18 U.S.C. § 3664 (2012) (describing sentencing procedures for ordering restitution).

[114] United States v. BP Prods. N. Am. Inc., No. H-07-434, 2008 WL 501321, at *12 n.7 (S.D. Tex. Feb. 21, 2008).

### B. OLC'S DISTORTION OF THE CVRA'S STRUCTURE AND LEGISLATIVE HISTORY

The next section of OLC's memorandum maintains that the CVRA's structure and legislative history lead to the conclusion that the CVRA is "best understood" as extending rights after charges have been filed. Here again, OLC's analysis is truncated at best and misleading at worst.

OLC begins this part of its analysis by observing that some of the rights in the CVRA are limited to court proceedings. OLC notes, for example, that the CVRA gives victims the "right to reasonable, accurate, and timely notice of any public *court proceeding* . . . involving the crime."[117] But the fact that some of the rights listed in the CVRA apply to court proceedings hardly means that all of the rights are to be so restricted. The federal criminal justice process includes stages that are pre-charging, post-charging, and post-conviction. It would hardly be surprising to find that a statute that Congress intended to be "broad and encompassing"[118] covered events occurring after the filing of charges.

Indeed, OLC appears to recognize that at least three of the rights listed in the CVRA could easily apply before charges are filed: (1) the "right to be reasonably protected from the accused"; (2) the "reasonable right to confer with the attorney for the Government in the case"; and (3) the "right to be treated with fairness and with respect for the victim's dignity and privacy."[119] None of these rights explicitly refer to court "proceedings" or other events (such as parole hearings) that necessarily occur after the filing of formal charges.[120]

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[115] OLC CVRA Rights Memo, *supra* note 2, at 5–6. Notably, the Department does not embrace the language from *Huff* found within the *Skinner* and *Paletz* decisions because presumably such an approach would be contrary to many of the rights found in the CVRA.

[116] *See infra* Part I.C.

[117] OLC CVRA Rights Memo, *supra* note 2, at 6 (emphasis added) (quoting 18 U.S.C. § 3771(a)(2)).

[118] 150 CONG. REC. 7295 (2004) (statement of Sen. Dianne Feinstein).

[119] OLC CVRA Rights Memo, *supra* note 2, at 7–8, 10 (quoting 18 U.S.C. § 3771(a)(1), (5), (8)).

[120] OLC appears to have overlooked another right that could well apply before charges are filed: the right to be notified of one's rights under the CVRA. *See* 18 U.S.C. § 3771(c)(1) (requiring prosecutors to "make their best efforts to see that crime victims are notified of, and accorded, the rights described in [the CVRA]"); United States v. Rubin, 558 F. Supp. 2d 411, 428 (E.D.N.Y. 2008) (discussing potential application of the right to

For purposes of this Article, it is appropriate to focus on the last two of these three rights: the right to confer and the right to fair treatment. The first of these three rights—the right to be reasonably protected—is already clearly extended by another statute to crime victims before the filing of charges. While OLC does not acknowledge this fact, the VRRA extends the first right to crime victims, directing that a "responsible official shall arrange for a victim to receive reasonable protection from a *suspected* offender and persons acting in concert with or at the behest of the *suspected* offender."[121] Because a "suspected" offender obviously exists before the filing of criminal charges, the VRRA envisions the right to protection being provided as soon as is practical after a victim suffers from the commission of a crime. Additionally, the sections of the *Attorney General Guidelines for Victim and Witness Assistance* addressing the VRRA direct that Justice Department components must provide reasonable protection even before the filing of criminal charges.[122] So, under the VRRA, the Justice Department should already be providing reasonable protection for a victim before an offender is indicted, regardless of how the CVRA is interpreted.[123]

The VRRA, however, does not contain a right to confer and a right to fair treatment and respect for the victim's dignity. Therefore, if victims are going to receive these statutory rights before trial, these rights must be found in the CVRA. With regard to the CVRA provision that victims have the "reasonable right to confer with the attorney for the Government in the case,"[124] OLC contends that "[t]he phrase 'in the case' implies the pendency of a judicial proceeding."[125] To bolster its conclusion, OLC then cites *Black's Law Dictionary*, which includes among its several definitions of the word "case" the definition "a civil or criminal proceeding."[126] But OLC does not acknowledge that *Black's Law Dictionary* also defines and exemplifies a "case" more broadly as a "criminal investigation <the

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notification of rights before charges are filed). For purposes of this Article, it is not necessary to explore this right in detail. If other CVRA rights apply before charges are filed, *a fortiori* this right does as well. If a victim has a right, presumably the victim should be notified of the existence of that right.

[121] 42 U.S.C. § 10607(c)(2) (2006) (emphasis added).

[122] *See* ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 7–8, 26–28.

[123] Exactly what "reasonable protection" means, however, remains uncertain. *See generally* Mary Margaret Giannini, *Redeeming an Empty Promise: Procedural Justice, the Crime Victims' Rights Act, and the Victim's Right to Be Reasonably Protected from the Accused*, 78 TENN. L. REV. 47 (2010) (suggesting the right has not been adequately defined and proposing ways to do so).

[124] 18 U.S.C. § 3771(a)(5).

[125] OLC CVRA Rights Memo, *supra* note 2, at 8.

[126] *Id.* (citing BLACK'S LAW DICTIONARY, *supra* note 59, at 243).

Manson case>."[127] Thus, *Black's Law Dictionary* does not help resolve the dispute as to which of the two meanings should be used, as there are clearly differing meanings. While OLC's reading may be a permissible one, so is a pro-victim reading.

OLC also turns to the CVRA's legislative history to bolster its conclusion. But, here again, its analysis is misleading. OLC relies on a passage from Senate floor colloquy between Senators Jon Kyl and Dianne Feinstein regarding the CVRA's scope. In OLC's recounting of the legislative history, the floor statements "emphasize that the right to confer relates to the conduct of criminal proceedings after the filing of charges."[128] For instance, OLC quotes Senator Kyl stating that "[u]nder this provision, victims are able to confer with the Government's attorney about proceedings *after charging*."[129]

This is a truncated and deceptive description of the legislative history, so much so that Senator Kyl sent an angry letter to Attorney General Eric Holder complaining about the distortion. On June 6, 2011, the Senator wrote to "express [his] surprise that [OLC is] so clearly quoting [his] remarks out of context."[130] Senator Kyl then went on to observe that the colloquy began by noting that the right to confer "*is intended to be expansive*."[131] The Senator further discussed various "examples" of when the right to confer applied, including "any critical stage or disposition of the case. *The right, however, is not limited to these examples*."[132] It was against that backdrop that Senator Kyl gave the example of conferring about proceedings "after charging."

In his letter to Attorney General Holder, Senator Kyl also noted that he had:

> made clear that crime victims had rights under the CVRA even before an indictment is filed. For example, . . . I made clear that crime victims had a right to consult about both 'the case' and 'case proceedings'—i.e., both about how the case was being handled before being filed in court and then later how the case was being handled in court 'proceedings.'[133]

Senator Kyl further commented that he had discussed the CVRA's potential application in grand jury proceedings, an application that required the Act to extend rights before indictment.[134] Thus, if anything, the legislative history does not support OLC's conclusion—it contradicts it.[135]

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[127] BLACK'S LAW DICTIONARY, *supra* note 59, at 244.

[128] OLC CVRA Rights Memo, *supra* note 2, at 9.

[129] *Id.* (emphasis added) (quoting 150 CONG. REC. 7302 (2004) (statement of Sen. Jon Kyl) (internal quotation marks and citation omitted).

[130] Letter from Jon Kyl, *supra* note 3.

[131] *Id.* (quoting 150 CONG. REC. S4260, S4268 (daily ed. Apr. 22, 2004) (statement of Sen. Dianne Feinstein)).

[132] *Id.*

[133] *Id.*

OLC should have had no doubt as to the intent of Senator Kyl and his cosponsors at the time of the Act's passage. Shortly after shepherding the CVRA through the Congress, Senator Kyl cowrote a law review article about the Act.[136] In that article, he directly indicated that the CVRA applies before charges are filed. Senator Kyl and his coauthors wrote:

> While most of the rights guaranteed by the CVRA apply in the context of legal proceedings following arrest and charging, other important rights are triggered by the harm inflicted by the crime itself. For example, the right to be treated with fairness, the right to be reasonably protected from the accused (who may qualify as the accused before his arrest), and the right to be treated with respect for the victim's dignity and privacy each may arise without regard to the existence of legal proceedings.[137]

Remarkably, OLC cited Senator Kyl's law review article (in a footnote), but then concluded without explanation that the CVRA cosponsor's views were for some reason different than Congress's.[138]

OLC also appears to acknowledge that its interpretation of the CVRA could well contradict what it describes as prosecutorial "good practice."[139] OLC noted that some Justice Department components (for example, the Environmental and Natural Resources Division) had advocated that the right to confer should apply during pre-charging plea discussions.[140] OLC then acknowledged that limiting the right to confer until after formal charging could "reduce the impact of a victim's participation in subsequent court proceedings."[141] OLC attempted to dodge this problem by explaining: "The question before us, though, is not whether it would be advisable as a matter of good practice . . . for Government attorneys to confer with victims pre-charge when appropriate . . . ."[142] OLC then explained that even under its narrow interpretation of the statute, "the CVRA would still ensure that the victim has an opportunity to be heard by the court, and by the Government, before the court accepts the plea."[143]

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[134] *Id.*

[135] Attorney General Holder never sent a response to Senator Kyl's letter. But Assistant Attorney General Ronald Weich sent a belated response. Letter from Ronald Weich, Assistant Att'y Gen., to Jon Kyl, U.S. Sen. (Nov. 3, 2011) (on file with authors). That response did not address Senator Kyl's concern that his remarks were being quoted out of context.

[136] *See generally* Kyl et al., *supra* note 19.

[137] *Id.* at 594.

[138] OLC CVRA Rights Memo, *supra* note 2, at 8 n.7.

[139] *Id.* at 10.

[140] *Id.* at 9 (citations omitted) (discussing an interdepartmental memorandum addressing this question).

[141] *Id.* at 10.

[142] *Id.*

But OLC failed to recognize that its interpretation of the CVRA rendered the right to be heard a nullity in many important cases—including, notably, the Epstein case.[144] Where prosecutors and defense attorneys work out a nonprosecution agreement that agreement will never be presented to a court for review. Thus, in cases where the need for victim participation may be the greatest—that is, in cases where the Government is considering never filing any charges—OLC's interpretation would bar victims from having any rights at all.

Even in situations where a prosecutor works out a plea agreement, OLC's interpretation is problematic. As OLC recognizes, prosecutors and defense counsel commonly work out pre-indictment plea agreements (particularly in white-collar cases), under which a defendant will plead guilty to certain charges.[145] Then, the parties jointly present to the district court a criminal "information" (that is, a recitation of the charges drafted by the prosecutor but never presented to the grand jury[146]) and a plea agreement, asking the court to file the criminal information and simultaneously accept the guilty plea. As the OLC memorandum acknowledges, a crime victim would have the right to object to the plea agreement, because the CVRA gives crime victims the "right to be reasonably heard" at any public proceedings involving a plea.[147] But under OLC's interpretation of the CVRA, a crime victim has no right to notice of court hearings until the charges are filed. Thus, if the information and plea are filed simultaneously, as is often the case, two scenarios are possible. A victim could have no prior right to notice of the proceeding at which the plea was being accepted, or alternatively (if the act of filing the information in the course of accepting a plea triggers a notification right), the district court would be required to stop in the middle of proceedings and ensure that notification was belatedly provided. Of course, these difficulties are all avoided if the right to confer is properly construed as attaching before charges are filed, such as during plea negotiations between prosecutors and defense attorneys.

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[143] *Id.*

[144] The OLC opinion was publicly released on May 20, 2011. Perhaps not coincidentally, this release date was shortly before the Government filed its response in the Epstein case.

[145] *See* OLC CVRA Rights Memo, *supra* note 2, at 9 (acknowledging the potential effect of the CVRA on plea negotiations).

[146] *See* FED. R. CRIM. P. 7(b).

[147] 18 U.S.C. § 3771(a)(4) (2012); OLC CVRA Rights Memo, *supra* note 2, at 6–7.

More importantly, extending the right in this fashion will not be unduly burdensome for federal prosecutors. After the OLC memorandum was made public, the Department amended the *Attorney General Guidelines for Victim and Witness Assistance* to require prosecutors to make reasonable efforts toward a goal of providing victims with a meaningful opportunity to offer their views before plea agreements are formally reached.[148] "In circumstances where plea negotiations occur before a case has been brought, Department policy is that this should include reasonable consultation prior to the filing of a charging instrument with the court."[149] Thus, Department policy already extends pre-charging rights to victims. The CVRA should be understood as having the same scope.

OLC also notes that the CVRA right "to be treated with fairness and with respect for the victim's dignity and privacy" is a right that could apply before charges are filed.[150] Indeed, OLC is forced to concede (as district courts have recognized) that the "right to be treated with fairness and with respect for the victim's dignity and privacy may apply with great force during an investigation, before any charging instrument has been filed."[151]

OLC nonetheless maintains that the right to fairness only applies after charges have been filed. OLC relies on the canon of statutory construction *noscitur a sociis*, meaning that words are known by their companions,[152] for its interpretation of the CVRA. OLC argues that because the other seven enumerated rights are limited to post-charging situations, the eighth right should be as well. Of course, this argument assumes that OLC's construction of the other seven rights is correct—a point very much in dispute.[153] If, for example, the right to confer applies before charges are filed, then presumably *noscitur a sociis* would cut the other way—the right to fairness should likewise be construed as applying before charges are filed.

Moreover, OLC omits from its discussion of the fairness provision any assessment of the CVRA's purposes. In construing a statute, a court must consider the "purpose and context" of the statute.[154] In describing the fairness provision, Senator Kyl emphasized that it conferred a "broad" right.[155] The reason for adopting such a broad right was that "[t]oo often victims of crime experience a secondary victimization at the hands of the criminal justice system. This provision is intended to direct Government agencies and employees, whether they are in the executive or judiciary branch, to treat victims of crime with the respect they deserve."[156] OLC's failure to consider the purposes underlying the CVRA is a glaring oversight.

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[148] ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 41–42.

[149] *Id.* at 41.

[150] OLC CVRA Rights Memo, *supra* note 2, at 10 (quoting 18 U.S.C. § 3771(a)(8)).

[151] *Id.* (quoting United States v. BP Products North America Inc., No. H-07-434, 2008 WL 501321, at *11 (S.D. Tex. Feb. 21, 2008) (internal quotation marks omitted)).

[152] *Id.* at 11.

[153] *See supra* Part III.A.

[154] Kasten v. Saint-Gobain Performance Plastics Corp., 131 S. Ct. 1325, 1331 (2011).

OLC never attempts to explain why the CVRA's drafters would want victims to have a right to fair treatment once criminal charges were filed but possess no such right before the filing of criminal charges. Clearly, many victims can and do suffer secondary victimization during criminal investigations, such as when sexual assault victims are treated inappropriately by law enforcement agents.[157] It would contradict the purpose of preventing victim mistreatment in the criminal justice system to artificially limit the right to fairness to the point at which charges are filed. The right to fairness logically applies at all stages of the criminal justice process.

### C. OLC'S INEFFECTIVE RESPONSE TO THE CVRA'S COVERAGE AND VENUE PROVISIONS

At the end of its memorandum, OLC finally discusses what it identifies as the two strongest arguments for construing the CVRA as applying before charging: the coverage provision and the venue provision. OLC acknowledges, as it must, that the CVRA's coverage extends to any federal employee engaged in "the *detection*, *investigation* or prosecution of crime."[158] Such employees "shall make their best efforts to see that crime victims are notified of, and accorded, the rights" afforded by the statute.[159] Notably, this duty applies to individuals not just in the Justice Department (where all federal prosecutors are located) but other agencies as well, such as environmental crimes investigators in the Environmental Protection Agency (EPA).[160]

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[155] 150 CONG. REC. 7303 (2004) (statement of Sen. Jon Kyl).

[156] *Id.*

[157] *See* SUSAN ESTRICH, REAL RAPE 50–51 (1987) (describing how a rape victim's sexual history may be used against her in court proceedings); Beloof, *supra* note 38, at 309–10 (collecting examples of victims' issues that arise during the investigative process); *see also* PRESIDENT'S TASK FORCE ON VICTIMS OF CRIME, FINAL REPORT, *supra* note 10, at 57–62 (making recommendations for how police should treat victims during the criminal justice process).

[158] OLC CVRA Rights Memo, *supra* note 2, at 15 (quoting 18 U.S.C. § 3771(c)(1) (2012)) (internal quotation marks omitted).

[159] 18 U.S.C. § 3771(c)(1).

This coverage provision would seem to answer any lingering question about whether the CVRA applies before charging. In directing that federal employees engaged in the "detection" and "investigation" of crime must respect victims' rights, Congress wanted broad rights extending beyond just the prosecution of a case. As the district court concluded in the Epstein case, this provision "surely contemplates pre-charge application of the CVRA."[161]

OLC gamely maintains, however, that Congress was simply trying to provide that federal law enforcement agents should provide rights to victims when a criminal case moves to its prosecution phase. OLC noted the uncontroversial point that law enforcement agents "often develop a relationship of trust with crime victims during the investigation that continues as they assist crime victims in negotiating active criminal proceedings."[162] OLC then asserted:

> Given this continuing active role that agents typically play during criminal prosecutions, we find the fact that the CVRA assigns responsibility to them, together with the attorney for the Government, to . . . accord them their rights under the CVRA to be entirely consistent with our conclusion that those rights arise only once the Government has initiated criminal proceedings.[163]

But OLC's contorted position never explains why Congress found it necessary to break out three separate phases of the criminal justice process: the "detection," "investigation," and "prosecution" of crime. If the congressional intent was simply to cover, for example, FBI agents or EPA agents during the post-charging phase of a case, it could have simply omitted those words from the CVRA. An FBI agent, for example, would be engaged in the "prosecution" of the case when assisting the victim after the formal filing of charges. On OLC's reading of the statute, the words "detection" and "investigation" become meaningless, contrary to the well-known canon of construction *verba cum effectu sunt accipienda*, which means that, if possible, every word and every provision is to be given effect.[164]

OLC also suggests that the "most significant" argument supporting pre-charging application of rights is the venue provision, which allows crime victims to assert CVRA rights "in the district court in which a defendant is being prosecuted for the crime or, *if no prosecution is underway*, in the district court in the district in which the crime occurred."[165] The Department contends that this language refers quite narrowly to the "period of time between the filing of a complaint and the initiation of formal charges."[166] In support of its position, the Department cites a Fourth Circuit case interpreting the Sixth Amendment right to counsel, which held that a "prosecution" for purposes of that Amendment does not begin when a criminal complaint is filed.[167] In OLC's view, the venue provision's direction that victims should assert rights when "no prosecution is underway" applies only to the limited time between when the Government files a complaint against a defendant and some later point when the "prosecution" actually begins. OLC notes that the filing of a complaint triggers an initial appearance, where crime victims can have important interests at stake, such as the right to be heard about a defendant's release on bail. OLC believes it is only to such post-complaint, yet pre-indictment, proceedings (i.e., the initial appearance) that the venue provision's "no-prosecution-underway" language covers.

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[160] *See* Kyl et al., *supra* note 136, at 615 ("Notice should be given to the fact that it applies not just to the Department of Justice, but to all 'departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime.'" (citation omitted)).

[161] Does v. United States, 817 F. Supp. 2d 1337, 1342 (S.D. Fla. 2011).

[162] OLC CVRA Rights Memo, *supra* note 2, at 15.

[163] *Id.*

[164] *See, e.g.*, Reiter v. Sonotone Corp., 442 U.S. 330, 339 (1979).

As a preliminary matter, OLC's interpretation of the word "prosecution" in the Department's narrow construction of the venue provision is a twisted one, at odds with the way that term is conventionally used. The filing of a complaint is typically viewed as the start of a criminal prosecution. For example, the leading criminal procedure hornbook states that "[w]ith the filing of the complaint, the arrestee officially becomes a 'defendant' *in a criminal prosecution*."[168]

Moreover, having specifically rejected the filing of the criminal complaint as the starting point for a "prosecution" within the CVRA's venue provision, OLC refuses to consider the implications of its alterative starting point: the formal filing of an indictment. OLC states that "a prosecution of a felony must commence with the return of an indictment by a grand jury," citing the *Federal Rules of Criminal Procedure*.[169] Yet OLC does not pause to recognize that, while felonies proceed by way of indictment, misdemeanors can proceed not only by indictment but also by complaint.[170] The CVRA draws no distinction between misdemeanor and felony offenses, broadly extending its protections to victims of any federal offense.[171] Thus, under OLC's interpretation that the filing of a complaint does not trigger the CVRA, many victims who are entitled to CVRA protections—i.e., victims of misdemeanor offenses prosecuted by way of complaint—will never have proper venue to assert those rights because, according to OLC's strained argument, no prosecution ever started in their cases.

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[165] OLC CVRA Rights Memo, *supra* note 2, at 14 (quoting 18 U.S.C. § 3771(d)(3) (2012)).

[166] *Id.*

[167] *Id.* (citing United States v. Alvarado, 440 F.3d 191, 200 (4th Cir. 2006)).

[168] WAYNE R. LAFAVE ET AL., CRIMINAL PROCEDURE § 1.2(g), at 11 (5th ed. 2009) (emphasis added).

[169] OLC CVRA Rights Memo, *supra* note 2, at 14 (citing FED. R. CRIM. P. 7(a)(1)).

[170] FED. R. CRIM. P. 58(b)(1) ("The trial of a misdemeanor may proceed on an indictment, information, *or complaint*." (emphasis added)).

Even limiting the focus to felony cases, OLC misleadingly describes the Sixth Amendment case law. It is not immediately clear why one would look to the right to counsel to determine the breadth of the term "prosecution" in the Sixth Amendment. The right to counsel is not the only right found in that Amendment. The Amendment also extends, for example, a right to a speedy trial in all criminal "prosecutions."[172] The case law on the speedy trial right makes clear that the right "may attach before an indictment and as early as the time of arrest and holding to answer a criminal charge."[173]

In any event, the right to counsel cases are quite clear in providing that a Sixth Amendment "prosecution" can (and often does) begin well before an indictment.[174] The Supreme Court has directly held that the Sixth Amendment's right to counsel attaches "at or after the time that judicial proceedings have been initiated against [a person]—'whether by way of formal charge, preliminary hearing, indictment, information, or arraignment.'"[175] Thus, under this controlling precedent, some earlier point in time before indictment is the triggering point of a Sixth Amendment "prosecution."

The cases that OLC cites are not to the contrary. It is true that some federal appeals courts have stated that the mere filing of a criminal complaint does not trigger a Sixth Amendment right to counsel.[176] But there is a split of authority on this question, as OLC acknowledges in a footnote.[177] More importantly for purposes of this Article, the cases holding that the mere filing of a complaint does not start a Sixth Amendment prosecution also make clear that a later court hearing would start such a prosecution. For instance, in the Fourth Circuit case cited by OLC, *United States v. Alvarado*, the court reasons that "the main reason a law enforcement officer files [] a complaint is to establish probable cause for an arrest warrant. The criminal process is still in the investigative stage, and the adverse positions of government and defendant have yet to solidify."[178] Relying on that reasoning, the Fourth Circuit refused to find that the right to counsel had attached merely because a police officer had filed a complaint to get an arrest warrant. But the Fourth Circuit distinguished that situation from "the initiation of adversary judicial proceedings against the defendant."[179] An initial appearance would be such an adversary proceeding—i.e., it would be a "prosecution" under the Sixth Amendment. In light of this, OLC's position that the CVRA's venue provision's "no-prosecution-underway" reference covers proceedings, such as an initial appearance, does not work.

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[171] *See* 18 U.S.C. § 3771(e) (2012).

[172] U.S. CONST. amend. VI.

[173] United States v. Gouveia, 467 U.S. 180, 190 (1984) (quoting United States v. MacDonald, 456 U.S. 1, 6–7 (1982)) (internal quotation marks omitted).

[174] *See, e.g.*, Texas v. Cobb, 532 U.S. 162, 172–73 (2001).

[175] Brewer v. Williams, 430 U.S. 387, 398 (1977) (quoting Kirby v. Illinois, 406 U.S. 682, 689 (1972)).

[176] *See, e.g.*, United States v. Alvarado, 440 F.3d 191, 196 (4th Cir. 2006).

[177] OLC CVRA Rights Memo, *supra* note 2, at 14 n.15 (citing Hanrahan v. United States, 348 F.2d 363, 366 n.6 (D.C. Cir. 1965)); *see* WAYNE R. LAFAVE ET AL., CRIMINAL PROCEDURE § 6.4(e), at 670 (3d ed. 2007) ("There is an apparent split of authority on the question of whether the filing of a complaint is alone enough to give rise to a Sixth Amendment right to counsel, though the difference probably is explainable by the fact that

The only sensible way to construe the CVRA's venue provision is to read it as conveniently dividing criminal cases into two phases: a prosecution phase and an earlier investigative phase when "no prosecution is under way."[180] Senator Kyl, for instance, has noted that if there are any doubts about how to construe the CVRA, this venue provision "sweeps them away."[181] Once again, the language that Congress used leads inexorably to the conclusion that the CVRA extends rights to victims before the filing of criminal charges.

## IV. WHEN PRE-CHARGING RIGHTS ATTACH UNDER THE CVRA

The zeal with which OLC argues against applying CVRA rights before charging raises the question of why it protests so much. Although OLC never articulated this concern, perhaps OLC worried that pre-charging rights would be difficult to administer. Such concerns should evaporate with a workable construction of when pre-charging rights attach. In this Part, we propose such a construction, suggesting that CVRA rights should attach when substantial evidence exists that a specific person has been directly and proximately harmed as the result of a federal crime. This approach appears to already be the method that the Department is taking, as

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this document is used for multiple purposes."); *see also* Felder v. McCotter, 765 F.2d 1245, 1248 (5th Cir. 1985) (citing Texas law).

[178] *Alvarado*, 440 F.3d at 200 (citations omitted) (internal quotation marks omitted).

[179] *Id.* (quoting United States v. Gouveia, 467 U.S. 180, 187 (1984)).

[180] 18 U.S.C. § 3771(d)(3) (2012).

[181] Kyl et al., *supra* note 19, at 594.

it has extended many rights to victims before the formal filing of criminal charges as a matter of internal policy.[182] This approach appears to be workable, as a number of states extend rights to victims during the investigative process.[183]

## A. A TEST FOR DETERMINING WHEN RIGHTS ATTACH

As explained in the earlier Parts of this Article, the CVRA clearly envisions that crime victims would have rights in the criminal justice process before the return of indictments or the filing of criminal complaints. The question then as to how much earlier in the process crime victims have rights naturally arises. Does the CVRA apply one second after a federal crime has been committed? Or does it apply at some later point during an investigation?

This issue was nicely framed by the U.S. District Court for the Eastern District of New York in a securities fraud case. In the first indictment underlying the case, the charged crime did not include various victims. A later superseding indictment broadened the charges to include those missing individuals. When they brought a suit under the CVRA, the court noted that "[q]uite understandably, movants perceive their victimization as having begun long before the government got around to filing the superseding indictment."[184] The court, however, explained that there must be "logical limits" to crime victims' rights before the filing of charges.[185] The court noted:

> For example, the realm of cases in which the CVRA might apply despite no prosecution being 'underway,' cannot be read to include the victims of uncharged crimes that the government has not even contemplated. It is impossible to expect the government, much less a court, to notify crime victims of their rights if the government has not verified to at least an elementary degree that a crime has actually taken place, given that a corresponding investigation is at a nascent or theoretical stage.[186]

The logical limits that the CVRA envisions could come from how the Justice Department interacts with criminals during the investigation of a crime. Crime victims' rights advocates are fond of saying that victims "only want to be treated like criminals"—that is, they simply want to have the same kinds of rights as criminals receive, such as the right to be notified of court hearings and to attend those hearings.[187] So it is instructive to notice that the Justice Department policy is to extend certain rights to suspected criminals during certain points in the investigative process. That policy might provide guidance on when crime victims' rights would attach.

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[182] *See, e.g.*, ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 41–42 (discussing the right to confer regarding plea bargains).

[183] *See infra* Part III.D.

[184] United States v. Rubin, 558 F. Supp. 2d 411, 419 (E.D.N.Y. 2008).

[185] *Id.*

[186] *Id.*

Of particular interest here is the Department's policy for grand jury subpoenas issued to a "target" of a criminal investigation. When such a target is subpoenaed to testify before a grand jury, the Department of Justice will advise that target of his rights, such as the right to refuse to answer any question that might be incriminating.[188] The Department of Justice defines a "target" of a criminal investigation as "a person as to whom the prosecutor or the grand jury has substantial evidence linking him or her to the commission of a crime and who, in the judgment of the prosecutor, is a putative defendant."[189]

If the Department's investigation has coalesced sufficiently so that it can provide notice of rights to putative defendants, it should likewise be in a position to provide notice of rights to that defendant's victims. Combining the Department's definition of "target" with the CVRA's coverage and definition-of-victim provisions produces a formulation whereby CVRA rights attach in (at least) the following circumstances:

*CVRA rights attach when an officer or employee of the Department of Justice or any other department or agency of the United States engaged in the detection, investigation, or prosecution of crime has substantial evidence that an identifiable person has been directly and proximately harmed as a result of the commission of a federal offense or an offense in the District of Columbia, and in the judgment of the officer or employee, that person is a putative victim of that offense.*

This formulation borrows from the CVRA's coverage provision[190] to define the relevant universe of substantial evidence as that in the possession of the Justice Department or other federal agencies. For instance, if state law enforcement officers are investigating a bank robbery, the fact that the robbery might also be prosecuted federally[191] does not make the teller at the bank a federal "victim" of the crime until evidence regarding the crime comes into the possession of a federal agency. The formulation also tracks the CVRA's definition of "victim" in limiting the universe of potential victims to those who have been "directly and proximately harmed."[192] Finally, the formulation requires some federal officer or employee to evaluate the evidence and reach the conclusion that a federal offense has been committed that harmed the person in question. This determination responds to the observation by the District Court for the Eastern District of New York that the CVRA "cannot be read to include the victims of uncharged crimes that the government has not even contemplated."[193] At the same time, such a formulation obviously does not require the filing of formal criminal charges, or even the preparation of formal criminal charges. Instead, all that is required is for the Department to recognize that a person is a putative victim of a federal offense, just as all that is required for the mailing of a target letter to a subpoenaed suspected criminal, is recognition that he is a putative defendant in a federal case.

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[187] *See, e.g.*, Cassell, *supra* note 15, at 1376–85 (describing the rationale underpinning state victims' rights statutes).

[188] CRIMINAL RESOURCE MANUAL, *supra* note 87, § 9-11.151.

[189] *Id.*

[190] 18 U.S.C. § 3771(e) (2012).

[191] *Id.* § 2113.

### B. APPLYING THE TEST TO THE EPSTEIN CASE

To illustrate how the test would operate, it is useful to examine the facts of the Epstein case. Applying the proposed test to that case produces straightforward answers, which suggests that the test would be workable in practice.

From 2001 to 2007, Jeffrey Epstein sexually abused more than thirty minor girls in his mansion, including Jane Doe Number One and Jane Doe Number Two.[194] Initially, of course, his acts of abuse were secret, unknown to law enforcement. During that period of time, the victims would not have had rights under the CVRA.

In 2006, Epstein's acts of abuse came to the attention of the Palm Beach Police Department, which began investigating the case.[195] At this point, once again, the victims would not have had rights under the proposed CVRA test. The CVRA extends rights in the federal criminal justice process. A state investigation does not trigger the CVRA (although it may trigger certain state law protections, as discussed below).[196]

At some point in 2006, the Palm Beach Police Department asked the FBI to investigate Epstein on federal sex offenses, such as using a means of interstate communication in connection with sex offenses and traveling in interstate commerce for the purpose of engaging in illicit sexual conduct with minors.[197] The local police provided the FBI with information, which the FBI then investigated. Following an investigation, the FBI determined that the allegations of abuse against Epstein were credible, and it presented the case to the U.S. Attorney's Office for the Southern District of Florida. In 2007, the Office contacted counsel for Jeffrey Epstein and began negotiating a resolution of the case against him.[198]

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[192] *See id.* § 3771(e).

[193] United States v. Rubin, 558 F. Supp. 2d 411, 419 (E.D.N.Y. 2008).

[194] As above, *see supra* notes 34–41 and accompanying text, this part of the Article draws on the factual allegations made by the victims in this case—allegations that Epstein has not intervened to dispute. *See* Jane Doe Motion, *supra* note 40, at 3–23.

[195] *See* Probable Cause Affidavit, Palm Beach Police Department: Police Case No. 05-368(1) (May 1, 2006), *available at* http://goo.gl/fAPFw5; *see also* Statement of Undisputed Facts, Epstein v. Rothstein, No. 50 2009 CA 040800XXXXMBAG (Fla. Cir. Ct. Sept. 22, 2010), *available at* http://goo.gl/DzMbe8.

[196] *See supra* notes 178–95 and accompanying text as well as *infra* Part IV.D.

Under our proposed test, the victims would not have had CVRA rights the first moment that the FBI became aware of Epstein's possible commission of sex offenses. But after the FBI developed substantial evidence of those sex offenses, identified victims of those offenses, and presented the case to the appropriate U.S. Attorney's Office for prosecution, CVRA rights would have attached. Accordingly, the FBI would have been required to notify the identified victims of their rights under the CVRA (as well as under the VRRA). From that point forward in the case, the victims would have had CVRA rights, such as the right to fair treatment and the right to confer with prosecutors. In this case, the victims would have had the right to confer with prosecutors about the nonprosecution agreement that they ultimately reached with Epstein.[199]

### C. CURRENT DEPARTMENT POLICY ON PRE-CHARGING RIGHTS

One objection that might be made to the formulation offered above is that it might unduly burden federal law enforcement officers and prosecutors, who would need to make judgment calls about when an investigation has coalesced to the point where "victims" are in existence, "substantial evidence" has been collected, and notice of rights has to be provided. Any such objection would be ill-founded, though, as it does not appear that implementing such an approach would be difficult.[200] Presumably the Justice Department has already been providing such rights in at least Texas, Louisiana, and Mississippi to comply with the Fifth

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[197] *See* 18 U.S.C. §§ 2422(b), 2423(b), (e) (2012).

[198] A more substantial summary of the case is available in case filings. *See* Jane Doe Motion, *supra* note 40.

[199] *See supra* Part II.

[200] This Article does not discuss mass victim cases in which notice needs to be provided to hundreds of victims. But in such situations, the CVRA already provides for "reasonable" alternative procedures. 18 U.S.C. § 3771(d)(2) (2012). The Department of Justice, for example, has used websites to provide notice in terrorism cases to large numbers of victims. *See, e.g.*, United States v. Ingrassia, No. CR-04-0455ADSJO, 2005 WL 2875220, at *4 (E.D.N.Y. Sept. 7, 2005); *Criminal Division's Victim Notification Program*, U.S. DEP'T OF JUSTICE, http://goo.gl/6H6IEk (last visited Dec. 4, 2013).

Circuit's 2008 ruling in *In Re Dean*, which held that the CVRA extends rights to victims before defendants are charged.[201] We have not seen any reports that providing the rights has been difficult.

Perhaps the reason for the lack of any reported difficulty is that the Department's current policy on crime victims' rights already requires notices to victims during investigations. The Justice Department has promulgated the *Attorney General Guidelines for Victim and Witness Assistance*, the latest edition of which is from May 2012. The *Guidelines* discuss crime victims' rights under both the CVRA and the earlier VRRA. Because of the OLC memorandum discussed above, the *Guidelines* limit CVRA rights until after the time "when criminal proceedings are initiated by complaint, information, or indictment."[202] The Department, however, provides hortatory guidance that Justice Department employees shall make "best efforts" to notify crime victims about their CVRA rights "as early in the criminal justice process as is feasible and appropriate."[203]

Of greater interest, however, is the Department's mandatory policy regarding notification regarding crime victim services under the VRRA. The *Guidelines* explain how "Department responsibilities to crime victims begin as soon as possible after the detection of a crime at which they may be undertaken without interfering in the investigation."[204] The *Guidelines* then direct the appropriate "responsible official" to provide crime victims with "information about services available to them."[205] This information must be provided at "the earliest opportunity after detection of a crime at which it may be done without interfering with an investigation."[206]

The Department appears to have little difficulty implementing this requirement. Evidence of this fact comes from the Justice Department itself, which responded to the letter from Senator Kyl discussed earlier questioning why the Department was not applying the CVRA before charges were filed.[207] In its response, the Department noted that OLC had issued an opinion that the CVRA did not extend rights before the formal filing of charges.[208] "Even so," the Department explained, "the new AG Guidelines go further and provide that Department prosecutors should make reasonable efforts to notify identified victims of, and consider victims' views about, prospective plea negotiations, even prior to the filing of a charging instrument with the court."[209]

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[201] 527 F.3d 391 (5th Cir. 2008).

[202] ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 8.

[203] *Id.* at 35.

[204] *Id.* at 26 (citing 42 U.S.C. § 10607(b) (2006)).

[205] *Id.* at 29 (citing 42 U.S.C. § 10607(b)(2)). Elsewhere, the *Guidelines* define the official who is responsible as the appropriate federal law enforcement officer during the investigation of the crime or the U.S. Attorney once charges have been filed. *Id.* at 25–26.

[206] *Id.* at 29.

[207] *See supra* notes 130–33 and accompanying text.

[208] Letter from Ronald Weich, *supra* note 135, at 2.

The Department also noted that it provided extensive pre-charging notifications to victims under the VRRA:

> Pursuant to the Victims' Rights and Restitution Act of 1990 (VRRA), the Department identifies victims and provides to them service referrals, reasonable protection, notice concerning the status of the investigation, and information about the criminal justice process prior to the filing of any charges. The Department's investigative agencies provide such services to thousands of victims every year, whether or not the investigation results in a federal prosecution.[210]

Quantifying the scope of this undertaking with regard to one federal investigative agency, the Department explained:

> [T]he [FBI] alone reports that it provided more than 190,000 services to victims during the past fiscal year [FY 2011], including case status updates, assistance with compensation applications and referrals, and counseling referrals. From sexual assaults in Indian Country to child pornography and human trafficking to mass violence and overseas terrorism, FBI victim specialists provide much-needed immediate and ongoing support and information to victims. The FBI addresses victim safety issues when needed, providing on-scene response and crisis intervention services in thousands of investigations. With regard to sexual assault victims, FBI personnel arrange for and often accompany victims to forensic sexual assault medical examinations and provide assistance with HIV/STD testing.[211]

In view of the Department's existing notifications and provision of services before charges are filed under the VRRA, it is hard to conceive how any viable claim could be made that it would be difficult to provide similar rights under the CVRA. The four rights that would be potentially in play before charging would be the right to reasonable protection, the right to fair treatment, and the right to confer with prosecutors, along with the predicate right to notice of these rights.[212] The VRRA already requires the Department to provide reasonable protection, so this would not be an expanded obligation.[213] Similarly, the *Guidelines* already require prosecutors to confer with victims about plea agreements (the most common situation where victims want to confer), so it is hard to imagine how extending this right would create any undue burden.[214] Additionally, the right to "fair treatment" could only be a problem if the Department wanted to treat victims unfairly. Given its repeated and professed commitment to crime victims, here too this obligation should not be burdensome. And finally, with regard to providing notice of CVRA rights to victims, the fact that the Department currently provides notice of VRRA rights indicates that it should not be difficult to provide notice of CVRA rights as well.

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[209] *Id.*

[210] *Id.* at 2–3.

[211] *Id.* at 3.

[212] 18 U.S.C. § 3771(a)(1), (5), (8), (c)(1) (2012).

[213] *See* 42 U.S.C. § 10607(c)(2) (2006).

[214] *See* ATTORNEY GENERAL GUIDELINES, *supra* note 52, at 41–42.

Indeed, it is possible that the Department's notification letters under the VRRA already include this information. Interestingly, in the Epstein case, the FBI notified Jane Doe Number One and Jane Doe Number Two that they had rights in the criminal justice process. As early as June 7, 2007—more than three months before it concluded a nonprosecution agreement with Epstein—the U.S. Attorney's Office sent a notice to Jane Doe Number One stating "your case is under investigation."[215] The notice also informed Jane Doe Number One that "as a victim and/or witness of a federal offense, you have a number of rights."[216] Among the rights that the U.S. Attorney's Office told Jane Doe that she possessed was "[t]he reasonable right to confer with the attorney for the United States in the case."[217] Of course, she would not have had those rights if she was not covered by the CVRA. The FBI therefore apparently assumed that the CVRA already applied in the Epstein case. It was only later, when the matter went into litigation, that the Department of Justice reversed course. This change in course underscores the problems arising out of the OLC memorandum and the Department's current interpretation of the CVRA.

### D. STATE LAW EXTENSION OF PRE-CHARGING RIGHTS

The focus of this Article so far has been crime victims' rights in the federal system. But in concluding, it is instructive to note how a number of states offer parallel rights for crime victims, including the right to confer with prosecutors. In fact, several states have extended such rights prior to formally filing of charges against defendants—without reported difficulty, so far as we are aware. This confirms our inference that extending CVRA rights to crime victims before the formal filing of criminal charges is both feasible and desirable.

A general overview of state laws illustrates the broad protections afforded to victims in state criminal justice systems. Nearly two-thirds of states have adopted constitutional provisions to protect victims throughout the criminal justice process.[218] Moreover, every state has adopted a statute that either enforces its constitutional amendment or creates independent statutory rights for crime victims.[219] As a result, state legislatures and state employees have attempted to give victims a voice in the criminal justice process across the country.

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[215] Letter from A. Marie Villafaña, Assistant U.S. Att'y, to Jane Doe #1 (June 7, 2007), *reprinted in* Jane Doe Motion, *supra* note 40, at ex. C.

[216] *Id.*

[217] *Id.*

Notably, while the strength of these rights varies from state to state,[220] nearly forty states require the prosecuting attorney to notify or confer with the victim regarding plea negotiations.[221] Several jurisdictions involve the victim in the charging decision.[222] In some states, law enforcement and prosecutors must involve the victim at any "critical"[223] or "crucial"[224] stage of the criminal proceeding; and in a minority of jurisdictions, the judge must ascertain whether the prosecutor has afforded the victim statutory protections prior to accepting a plea agreement.[225]

The general contours of state provisions suggest that several state governments have recognized the value in informing victims of their rights and involving them in the criminal process prior to the formal filing of charges.[226] Indeed, a brief look at the statutory protections illustrates the extent to which states have attempted to afford protections to victims long before the formal filing of charges.

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[218] *See Victims' Rights Laws by State*, NAT'L CRIME VICTIM L. INST. (Oct. 17, 2013), http://goo.gl/pdDx1w (listing and linking to state laws and constitutional amendments).

[219] *See* LAFAVE ET AL., *supra* note 168, § 21.3(f), at 1041–42.

[220] *See generally* DEAN G. KILPATRICK ET AL., NAT'L INST. OF JUSTICE, U.S. DEP'T OF JUSTICE, THE RIGHTS OF CRIME VICTIMS—DOES LEGAL PROTECTION MAKE A DIFFERENCE? (1998), *available at* http://goo.gl/EzH61S.

[221] *See* Peggy M. Tobolowsky, *Victim Participation in the Criminal Justice Process: Fifteen Years After the President's Task Force on Victims of Crime*, 25 NEW ENG. J. ON CRIM. & CIV. CONFINEMENT 21, 64 & n.168 (1999) (citing to victims' rights statutes in Connecticut, Illinois, and Michigan, among others). Unfortunately, as some commentators have noted, the notice and conferral provisions in some states are ambiguous, and the absence of case law precludes a definitive understanding of the reach of the right in some jurisdictions. *See* LAFAVE ET AL., *supra* note 168, § 21.3(f), at 1041–42; *see also, e.g.*, KAN. STAT. ANN. § 74-7333(a)(5) (2002) ("The views and concerns of victims should be ascertained and the appropriate assistance provided throughout the criminal process."). In some jurisdictions, the ambiguous use of an illustrative list could be read as suggesting that a particular right, such as conferral, hinges on formal charges. *See, e.g.*, KY. REV. STAT. ANN. § 421.500(6) (LexisNexis Supp. 2012) (requiring consultation on "disposition of the case including dismissal, release of defendant pending judicial proceedings, any conditions of release, a negotiated plea, and entry into a pretrial diversion program," but failing to define "disposition" or "case").

[222] *See* Tobolowsky, *supra* note 221, at 59–60.

[223] *E.g.*, LA. REV. STAT. ANN. §§ 46:1842(2), 46:1844(K) (2010).

[224] *E.g.*, FLA. CONST. art. I, § 16(b) (refraining from identifying the term).

[225] *See* LAFAVE ET AL., *supra* note 168, § 21.3(f), at 1041.

[226] *See Victims' Rights Laws by State*, *supra* note 218.

For example, Arizona has adopted a constitutional amendment and statutes that expansively protect victims. Under Arizona law, the definition of victim hinges on whether a criminal offense has been committed, and the term "criminal offense" is defined as "conduct that gives a peace officer *or* prosecutor probable cause to believe" a crime has occurred.[227] In short, a victim's status does not hinge on the formal filing of charges but rather on the criminal conduct itself.[228] Arizona law enforcement personnel must give information to victims describing their rights as soon as possible, even if formal charges have not yet been filed, and a victim may request that the prosecutor discuss the disposition of the case, including "a decision not to proceed with a criminal prosecution, dismissal, plea, or sentence negotiations and pretrial diversion programs."[229] A victim may even pursue some rights if counts are dismissed.[230] Arizona courts have also permitted victims to invoke their rights in the context of civil forfeiture proceedings.[231]

Hawaii's victims' rights statute illustrates how a state has defined the term "case" more expansively than the limited definition advocated by the Department in order to facilitate victim participation. By statute in Hawaii, victims must, upon request, be informed of "major developments" in any felony case.[232] Along a similar vein, the prosecuting attorney must consult or advise the victim about any plea negotiations.[233] Interestingly, however, the Hawaii legislature defined "major developments" as "arrest or release of the suspect by the police, case deferral by the police, referral to the prosecutor by the police, rejection of the case by the prosecutor, preliminary hearing date, grand jury date, trial and sentencing dates, and the disposition of the case."[234] The usage of the term "case" and the plain language of the provisions demonstrate that victims in the State of Hawaii are entitled to a notification right and a possible consultation right long before formal charges are filed.

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[227] ARIZ. REV. STAT. ANN. § 13-4401(6) (2010) (emphasis added); *see* State *ex rel.* Thomas v. Klein, 150 P.3d 778, 780–81 (Ariz. Ct. App. 2007) (noting the original version defined a criminal offense as a violation of a statute).

[228] Under Arizona law, the "rights and duties that are established by this chapter arise on the arrest *or* formal charging of the person or persons who are alleged to be responsible for a criminal offence against a victim." ARIZ. REV. STAT. ANN. § 13-4402(A) (2010) (emphasis added).

[229] ARIZ. REV. STAT. ANN. § 13-4419(A) (2010).

[230] *See* ARIZ. REV. STAT. ANN. § 13-4402.01(A).

[231] It appears, however, that the criminal proceeding may have been parallel to the civil forfeiture proceeding. *See* State v. Lee, 245 P.3d 919, 923–24 (Ariz. Ct. App. 2011).

[232] HAW. REV. STAT. ANN. § 801D-4(a)(1) (LexisNexis 2007).

[233] *See id.*

[234] *Id.* § 801D-2.

Other states also expressly extend rights before the filing of charges. Colorado guarantees rights at "all critical stages of the criminal justice process[,]" which includes both the filing of charges and the decision to not file charges.[235] In Missouri, victims have the right:

> on charged cases or submitted cases where no charge decision has yet been made, to be informed by the prosecuting attorney of the status of the case and of the availability [of different forms of compensation and assistance] and of any final decision by the prosecuting attorney not to file charges.[236]

In New Jersey, officials typically send a letter informing the victim "that the case has been referred to the prosecutors' office and explains and offers the services available from the country office of victim-witness advocacy."[237] Subsequent letters to the victim ensure that the victim has notice of a series of decisions long before indictment,[238] and the office actively solicits information in order to "help the prosecutor's office decide whether or not to prosecute a case."[239] Along a similar vein, the Massachusetts legislature included a provision that makes it clear that nothing should prevent a prosecutor from providing victim services to persons injured by the commission of a crime, even though a complaint or indictment has not yet been issued.[240]

In addition to extending rights before the filing of charges, several states require consultation before the prosecutor reaches a plea agreement with the defendant. For example, Idaho's statute provides that a victim must be given an opportunity "to communicate with the prosecution in criminal or juvenile offenses, and be advised of any proposed plea agreement by the prosecuting attorney prior to entering into a plea agreement in criminal or juvenile offenses involving crimes of violence, sex crimes or crimes against children."[241] In Indiana, the plain language of its statute leaves open the possibility of a conferral right before formal charges to the extent that the statute includes two separate time frames: "after a crime . . . has been charged" *or* "before any disposition of a criminal case involving the victim."[242]

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[235] COLO. CONST. art. II, § 16a; COLO. REV. STAT. § 24-4.1-302(1) (2013). *But see* COLO. REV. STAT. § 24-4.1-302.5(1)(f) (2012) (limiting conferral right, in particular, to later stages of a criminal proceeding). Despite these limitations on the conferral right, victims retain the ability to be heard at any hearing involving a plea. *See id.* § 24-4.1-302.5.

[236] MO. ANN. STAT. § 595.209(10) (West 2011).

[237] OFFICE OF VICTIM-WITNESS ADVOCACY, N.J. DEP'T OF LAW & PUB. SAFETY, A CRIME VICTIM'S GUIDE TO THE CRIMINAL JUSTICE SYSTEM 4 (2d ed. 1997); *see also* N.J. CONST. art. I, § 22. *Compare* 18 U.S.C. § 3771 (2012), *with* N.J. STAT. ANN. § 52:4B-36 (West 2009). In addition to the rights similar to the federal legislation, New Jersey law provides for the right "[t]o be advised of case progress and final disposition and to confer with the prosecutor's representative so that the victim may be kept adequately informed . . . ." *Id.* § 52:4B-36(k).

[238] *See* OFFICE OF VICTIM-WITNESS ADVOCACY, *supra* note 237, at 4 (including pre-grand jury remand, administrative dismissal, grand jury remand, grand jury dismissal, and indictment returned).

[239] *Id.* at 26 (describing victim involvement at grand jury and arraignment stages of the proceeding).

[240] *See* MASS. ANN. LAWS ch. 258B, § 2 (LexisNexis 2004).

To be sure, not all states have afforded victims a voice throughout the entirety of the criminal justice process.[243] In some states, the statutes are ambiguous.[244] In a handful of states, there is clear language limiting rights until after the filing of charges. For example, Louisiana constrains the conferral right to criminal matters "in which formal charges have been filed by the district attorney's office."[245] Yet, unlike the federal CVRA, this statute specifically excludes pre-charging situations. And, in any event, despite Louisiana's limitation on a particular right within the statute, the legislature in this state still often saw fit to provide the victim with notification rights, even in the absence of the formal filing of charges.[246]

Very few state courts have ever considered the precise issue of whether conferral rights may attach prior to the formal filing of charges. This is likely caused by the fact that, unlike the federal statute, many state statutes fail to provide the victim with a procedural mechanism for challenging the conduct of prosecutors or law enforcement agencies.[247] However, in rare cases, state courts have implicitly recognized that a meaningful interpretation of victims' rights should include some rights prior to filing.

For example, a Connecticut court concluded that a company injured by the delinquent act of a minor was entitled to information about the case contained in a police file in a civil proceeding, even though it appears that there was little indication that criminal charges had been filed.[248] Similarly, the South Carolina Supreme Court, while limiting the ability of the victim to challenge the conduct of a prosecutor, concluded that the same rights under the state constitution must attach prior to the formal filing of an indictment.[249] Other courts have even permitted a victim to recover compensation or reparations for unindicted or acquitted conduct.[250]

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[241] IDAHO CODE ANN. § 19-5306(1)(f) (2004). As in the case of most of the state statutes, the Idaho statute is not without ambiguity. A different provision within the statute makes the notification right contingent "[u]pon the filing of a criminal complaint or juvenile petition . . . ." *Id.* § 19-5306(2).

[242] IND. CODE ANN. § 35-40-5-3(b) (West 2012); *id.* § 35-40-1-1 (failing to define "case").

[243] *See, e.g.*, MD. CONST. art. 47(b) ("In a case originating by indictment or information filed in a circuit court, a victim of crime shall have the right to be informed . . . .").

[244] In Delaware, for example, the statute contains an additional limitation in the conferral provision that is noticeably absent from the duty imposed on law enforcement to provide information about the victim's rights to that victim. *Compare* DEL. CODE ANN. tit. 11, § 9405 (2007), *and* DEL. CODE ANN. tit. 11, § 9411 (2007) (imposing additional requirements after the Attorney General commences the prosecution), *with* DEL. CODE ANN. tit. 11, § 9410 (2007). Query whether the limitations imposed in one section should be inferred in the other under the doctrine of *expressio unius est exclusio alterius*.

[245] LA. REV. STAT. ANN. § 1844(D)(1) (2010).

[246] *See id.* § 1844.

[247] *See generally* Douglas E. Beloof, *The Third Wave of Crime Victims' Rights: Standing, Remedy, and Review*, 2005 BYU L. REV. 255, 300–23 (discussing problems with remedies in victims' rights statutes).

In other words, while few state judiciaries have addressed the precise timing of state crime victims' rights, those that have addressed the question have typically found that the rights do extend to pre-charging situations.

Despite the relative dearth of state court cases, it is worth noting that most state statutes unequivocally provide for notification rights early in the criminal process.[251] For example, the Illinois statute imposes a limited duty on law enforcement agencies to keep victims informed of the status of an investigation until the accused is apprehended or the agency discontinues the investigation.[252] Similarly, law enforcement agencies in Iowa must keep the victim apprised of the investigation "until the alleged assailant is apprehended or the investigation is closed."[253] Michigan's statute requires law enforcement to provide information within a mere twenty-four hours of contact between the agency and the victim.[254]

In sum, while state law on crime victims' rights before charging is not fully developed, what law exists tends to support the position that crime victims deserve rights before the formal filing of charges. This law fits the long-standing trend in states toward expanding protections for crime victims.[255] The decision by state legislators to extend notification or conferral rights to crime victims demonstrates an express recognition that crime victims' meaningful participation in the criminal justice process may involve granting those victims rights before indictment.

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[248] *See In re* James B., Jr., 714 A.2d 735 (Conn. Super. Ct. 1998).

[249] *See Ex parte* Littlefield, 540 S.E.2d 81, 85 (S.C. 2000).

[250] *See* Kimberly J. Winbush, Annotation, *Persons or Entities Entitled to Restitution as "Victim" Under State Criminal Restitution Statute*, 92 A.L.R. 5TH 35, 35 (2001) (recounting cases in which unnamed victims were entitled to restitution).

[251] *See, e.g.*, MINN. STAT. ANN. § 611A.0315(a) (West 2009) (requiring a prosecutor to "make every reasonable effort to notify a victim of domestic assault . . . or harassment that the prosecutor has decided to decline prosecution of the case" but providing the right to participate in proceedings to circumstances in which the offender has been charged).

[252] *See* 725 ILL. COMP. STAT. ANN. 120/4.5 (2008).

[253] IOWA CODE ANN. § 915.13(1)(f) (West 2003).

[254] *See* MICH. COMP. LAWS ANN. § 780.753 (West 2007). Michigan's conferral right is particularly ambiguous, because the notification requirement imposed upon the prosecuting attorney contains a time limitation (after arraignment), but the legislature did not include an express time limitation on the conferral right. *See* MICH. COMP. LAWS ANN. § 780.756(3) (West 2007) (requiring the victim have the opportunity to consult prior to "any negotiation that may result in a dismissal, plea or sentence bargain, or pretrial diversion"); *see also* MISS. CODE ANN. § 99-43-7(1) (2007) (imposing a requirement on law enforcement officials to notify a victim within seventy-two hours).

## CONCLUSION

Crime victims have important rights at stake in the criminal justice process, even before prosecutors formally file criminal charges. It is hardly surprising, therefore, to find that a federal law that Congress in fact designed to create "broad and encompassing" rights for victims protects victims during a criminal investigation. As this Article has explained, interpreting the CVRA to cover crime victims during the pre-charging phase of a case is consistent with the statute's purposes, text, legislative history, and interpretive case law. And state criminal justice systems also appear to be moving in that direction.

The Justice Department's contrary interpretation seems unlikely to prevail when challenged. The CVRA signals a paradigm shift in the way that crime victims are to be treated, at least within the federal criminal justice system. Before enactment of the law, federal investigators and prosecutors might have been able to keep victims at arm's length, refusing to confer with them about the case and otherwise ignoring or even mistreating them during the process. But those days are over. The CVRA promises victims that they now have the right to confer with prosecutors and the right to be treated fairly while their cases are investigated. It is time for the Department of Justice to recognize and embrace that new reality.

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[255] *See* Jeffrey A. Parness et al., *Monetary Recoveries for State Crime Victims*, 58 CLEV. ST. L. REV. 819, 850 (2010); Tobolowsky, *supra* note 221, at 59 (describing a "significant expansion of victim rights to be consulted by the prosecutor and heard by the court").

# EXHIBIT 1

To

JANE DOE NO. 1 AND JANE DOE NO. 2'S RESPONSE IN OPPOSITION TO MOTION FOR LEAVE TO FILE SUPPLEMENT TO REPLY IN SUPPORT OF MOTION FOR LIMITED INTERVENTION BY ALAN M. DERSHOWITZ

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 9:08-80736-Civ-Marra/Johnson

**JANE DOE #1 and JANE DOE #2**

**v.**

**UNITED STATES**
____________________________/

## JANE DOE NO. 1 AND JANE DOE NO. 2'S RESPONSE TO SUPPLEMENT IN SUPPORT OF MOTION FOR LMITED INTERVENTION BY ALAN M. DERSHOWITZ

COME NOW Jane Doe No. 1 and Jane Doe No. 2 (the "current victims"), by and through undersigned counsel, to file this response to the Supplement to Reply in Support of Motion for Limited Intervention by Alan Dershowitz (DE 317-1). Dershowitz claims that an affidavit submitted by Jane Doe No. 3 in support of an unrelated pleading proves that she is "lying with respect to her claims against [him]." DE 317-1 at 1. The affidavit proves nothing of the sort. Indeed, if recent pleadings show anything, it is that Dershowitz continues to hide the truth about his activities.

Before turning to the specifics of what Dershowitz argues in his supplement, it is even more important to consider what he *fails* to argue. In neither his original reply (DE 306) nor his recent supplement (DE 317-1) has Dershowitz provided specific evidence to contest Jane Doe No. 3's allegations that he sexually molested her. This omission is revealing, because Dershowitz has repeatedly claimed in the media that he has irrefutable proof that her allegations are false. For example, on January 7, 2015, on the Fox Business (Lou Dobbs) program, Dershowitz stated: "I did the investigation in a day and was able to prove through *all kinds of* *records* that I couldn't have been in these places. The woman is a serial liar. If [Cassell and Edwards] had done that investigation, they would have come to the same conclusion."[1] Similarly, on January 8, 2015, on the Greta van Susteren show on FOX, Dershowitz claimed: "Now I can prove through *documentary evidence* that I was never at the times and places she [Jane Doe No. 3] alleges she had sex with me."[2] Yet despite having publicly claimed to have "all kinds of records" and "documentary evidence" that "prove" Jane Doe No. 3 is lying, Dershowitz has yet to produce a single document to this Court. Dershowitz's intransigence is not limited to this case, as he has also refused to comply with discovery requests in a parallel defamation action in state court. His refusal has led to a pending motion to compel. *See* Plaintiff's Motion to Compel Production of Documents, *Edwards v. Dershowitz*, No. CACE 15-000072 (Feb. 23, 2015) (attached as Exhibit 1) ("despite having had 45 days to gather materials that allegedly provide 'absolute proof' than he has never even met Jane Doe No. 3 – and despite having told numerous media sources that he had already collected such information – Dershowitz has provided none of these documents . . . .").[3] The Court should draw the obvious inference that Dershowitz, despite making broad claims to the media, has no such evidence to produce – because Jane Doe No. 3's allegations are true.

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[1] http://video.foxbusiness.com/v/3976630676001/alan-dershowitz-the-woman-is-a-serial-liar/? - sp=show-clips.

[2] http://radio.foxnews.com/2015/01/08/greta-alan-dershowitz-this-time-its-personal/.

[3] Jane Doe No. 3 explained in her earlier response that the Court should not allow Dershowitz to intervene here because he can protect his (alleged) reputational interests in the pending defamation action. DE 291 at 11-12). The Court may be interested to learn that Dershowitz has recently filed a counterclaim against Edwards and Cassell for defaming him in that action – suggesting he can litigate his reputational interests there, and thus has no need to do so here.

In his most recent supplemental filing with this court (DE 317-1), Dershowitz twists the facts and jumps to conclusions in service of his crusade against Jane Doe No. 3. For example, Dershowitz notes that Jane Doe No. 3 told attorney Edwards before April 2011 that Dershowitz had abused her, but then says "she and Edwards sat on this highly charged accusation for three years and eight months before first using it in their [sic] pleading filed on December 30, 2014. This constitutes laches that prejudiced . . . Dershowitz . . . ." DE 317-1 at 2. Dershowitz ignores the key fact that in April 2011, attorney Edwards did not represent Jane Doe No. 3. Accordingly, he could not "sit" on her claims against Dershowitz because he was not empowered, at that time, to pursue them.[4]

With regard to the claim of laches, Dershowitz argues that he has been prejudiced because if the allegations had been filed earlier, "he would have been in a far better position to secure travel and other records needed to disprove these charges." DE 317-1 at 2. But, as noted above, Dershowitz has already told worldwide news media that he has already collected all of the records and can provide irrefutable, documentary proof that Jane Doe No. 3 is lying. For example, Dershowitz has told the *Boston Globe* that "he will use his travel and credit card records, which he said he has fastidiously saved, to refute the allegations against him."[5]

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[4] Nor did Jane Doe No. 3 sit on any claims against Dershowitz, notably claims relating to the CVRA case. In 2011, Jane Doe No. 3 lacked legal counsel regarding the CVRA claim. It was not until her recent return from Australia to the United States that she understood the claims involved in the CVRA action and obtained legal counsel to pursue them. *See* DE 310-1 at 8, ¶ 57.

[5] "Dershowitz 'thrilled' to be sued for defamation," *Boston Globe* (Jan. 7, 2015), available at, http://www.bostonglobe.com/metro/2015/01/06/sued-for-defamation-dershowitz-thrilled-chance-question-lawyers-sex-crime-accuser/21QibSrwNC343eKMadWNeL/story.html.

Dershowitz can't have it both ways – simultaneously claiming he has the records and that he is harmed in collecting them – and the Court should not credit his conflicting positions.

## CONCLUSION

The Court should deny Dershowitz's motion to intervene.

DATED: March 24, 2015

Respectfully Submitted,

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# CERTIFICATE OF SERVICE

I certify that the foregoing document was served on March 24, 2015, on the following using the Court's CM/ECF system:

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/s/ Bradley J. Edwards

EXHIBIT 1

IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT, IN
AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

BRADLEY J. EDWARDS and PAUL G.
CASSELL,

Plaintiff(s),

vs.

ALAN M. DERSHOWITZ,

Defendant(s).
_____________________________________/

# PLAINTIFFS' MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Plaintiffs, Bradley J. Edwards and Paul G. Cassell, by through their undersigned attorneys, move to compel production of documents relevant to this action that defendant Alan M. Dershowitz has refused to produce.

Dershowitz has told numerous media sources that he has collected documents that provide "absolute proof" that he has not sexually abused a minor woman known as "Jane Doe No. 3." And yet despite having received a valid discovery request for these and other related documents more than 45 days ago, Dershowitz has refused to produce these documents to Edwards and Cassell. Indeed, he has refused to produce *any* documents to them. Accordingly, the Court should direct Dershowitz to produce these materials forthwith, as well as order him to pay reasonable costs and attorneys' fees necessitated by his refusal to make any appropriate document production.

## FACTUAL BACKGROUND

On December 30, 2014, Jane Doe No. 3 filed a motion (and later a corrected motion) seeking to join a case in the U.S. District Court for the Southern District of Florida, *Jane Doe Nos. 1 and 2 v. United States*, No. 9:08-cv-80736. She was represented by two attorneys who specialize in (among other things) representing crime victims, Bradley J. Edwards and Paul G. Cassell. The case involved an attempt to rescind a non-prosecution agreement (NPA) barring the prosecution of Jeffrey Epstein and his criminal associates on grounds that the victims' rights under the Crime Victims Rights Act (CVRA) had been violated.

In her corrected motion, Docket Entry (DE) 280, Jane Doe No. 3 briefly proffered the circumstances that would qualify her as a "victim" eligible to assert rights under the CVRA. *See* 18 U.S.C. 3771(e) (defining a CVRA "victim"). Jane Doe No. 3 briefly explained that when she was a minor, Jeffrey Epstein had trafficked her to Prince Andrew and Alan Dershowitz (among others) for sexual purposes. The motion also provided specific reasons why Jane Doe No. 3's participation was relevant to the case, including the pending discovery issues regarding Prince Andrew and Dershowitz. *See* DE 280 at 9-10 (explaining several reasons participation of new victims was relevant to existing issues).

After the motion was filed, Dershowitz made numerous media statements about the filing – and defamatory statements about Edwards and Cassell. For example, on CNN on January 5, 2015, Dershowitz stated that Edwards and Cassell are "prepared to lie, cheat, and steal. These are unethical lawyers."

http://www.cnn.com/videos/world/2015/01/05/wrn-uk-sex-abuse-allegations-alan-dershowitz-intv.cnn

In the course of defaming Edwards and Cassell, Dershowitz also made numerous representations that he had collected documents proving that he had never even met Jane Doe No. 3, much less sexually abused her. For example, on the same CNN program on January 5, Dershowitz stated: "No, never met her [Jane Doe No. 3], I didn't know what she looked like until I saw her photograph. . . . I have a superb memory. I have a memory of not having met her. *I d*id not meet her. And believe me, I remember everybody I've ever had sex with. . . . *I can prove it by flight records. I can prove it by my travel records.*" *Id.* (emphasis added). Dershowitz went on to say that disproving Jane Doe No. 3's allegations was a simple task requiring about one hour of work: "If they [Edwards and Cassell] had just done an hours' worth of work, they would have seen she is lying through her teeth." *Id.*

That same day, on NBC's *Today Show*, Dershowitz repeated his claim that it was a simple matter to collect documents disproving allegations made by Jane Doe No. 3:

> Her lawyers Paul Cassell, a former Federal judge and Brad Edwards, deliberately and willfully filed this pleading which they knew I had no opportunity to respond to in court, without doing any investigation, *if they had simply investigated the manifests of the airplanes, if they had checked my travel records*, if they had asked me and I could have given the names of these people who are witnesses, *they would know the stories, totally, completely false.*

https://www.youtube.com/watch?v=ZXePKTws0f0

Two days later, Dershowitz told Lou Dobbs on Fox Business, that he had already completed his investigation and had "all kinds of records" proving that Jane Doe No. 3 was a liar:

> They [Edwards and Cassell] did it for crass financial and political reasons. More to the point is [what] they didn't do... *I did the investigation in a day and was able to prove through all kinds of records that I couldn't have been in these places.* The woman is a serial liar. If they had done that investigation, they would have come to the same conclusion.

http://video.foxbusiness.com/v/3976630676001/alan-dershowitz-the-woman-is-a-serial-liar/? -sp=show-clips.

In response to the CVRA motion that Edwards and Cassell had made for Jane Doe No. 3, on January 5, 2015, Dershowitz filed a motion to intervene in the case to respond, along with an affidavit claiming that he had not sexually abused Jane Doe No. 3. In that affidavit, Dershowitz stated that "[i]f [Edwards and Cassell] had done any reasonable investigation of their client's false allegations, they would have found *absolute proof* that I did not [sexually abuse her] . . . even the most minimal of investigation would have proven conclusively that I could not have had sex with their client on Mr Epstein's island, in New Mexico or on the airplanes; and that I did not have sex with her in his New York or Palm Beach homes." DE 282-1 at ¶ 8.

On January 6, 2015, plaintiffs Edwards and Cassell filed their complaint in this action, alleging a massive public assault on their character by defendant Dershowitz. On January 9, 2015, Edwards and Cassell filed their Initial Request for Production to Defendant Alan M. Dershowitz. They requested production of documents along the lines that Dershowitz suggested he had already collected. For example, Request for Production (RFP) No. 9 sought "[copies of any and all 'absolute proof' as described in paragraph 8 of the sworn declaration of Alan M. Dershowitz."

On February 11, 2015, counsel for Edwards and Cassell sent an email to counsel for Dershowitz, noting that discovery production was past due and inquiring as to whether a motion to compel would be necessary. That same day, a paralegal for Cole, Scott & Kissane confirmed that appropriate production would be made by the end of the week. Shortly after, an attorney for Dershowitz disavowed that commitment, and indicated that Dershowitz would make his productions by February 23, 2015.

On February 23, 2015 – 45 days after the discovery requests had been served – Dershowitz responded. With regard to the request for production of documents, Dershowitz produced no documents whatsoever. Instead, he made a vague commitment to produce unspecified documents at some unspecified time in the future. Illustrative of Dershowitz's failure to make any substantive production is the following request for production and Dershowitz's answer:

> 9. Copies of any and all "absolute proof" as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.
>
> RESPONSE: Defendant objects to this Document Request to the extent that Plaintiffs seek to alter or shift any burdens of proof as a matter of law in this action. Subject to and without waiving the foregoing specific objections and General Objections, *Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.*

Dershowitz made the same evasive response – "Defendant responds that he will produce" unspecified "non-privileged documents" – to multiple discovery requests. *See* Dershowitz

Response to Requests for Production 1, 2, 3, 4, 5, 6, 9, 10, 13, 14, 15, 16, 19, 20, 21, 22, and 23. To permit the Court to review the extent of Dershowitz's evasions, a copy of his responses is attached to this pleading as Exhibit A.

In short, despite having had 45 days to gather materials that allegedly provide "absolute proof" that he has never even met Jane Doe No. 3 – and despite having told numerous media sources that he had already collected such information – Dershowitz has produced none of these documents to Edwards and Cassell. He has also made blanket assertions of a variety of privileges, but has produced no privilege logs.

## CONCLUSION

Accordingly, Edwards and Cassell request:

1. That Dershowitz be directed to produce all materials covered by the discovery requests forthwith;

2. That Dershowitz be held to have waived any and all otherwise applicable privileges as a consequence of his failure to timely file a privilege log; and

3. That Dershowitz be ordered to pay reasonable costs and attorneys' fees associated with the need to file this motion to compel.

## CERTIFICATE OF GOOD FAITH EFFORT TO RESOLVE

Plaintiffs have attempted in good faith to resolve the discovery issues presented in this motion (and others) as evidenced by the letter attached as Exhibit B. The Defendant has failed to respond as of the time of the filing of this motion.

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent via E-Serve to all Counsel on the attached list, this 2ND day of March, 2015.

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**Edwards, Bradley vs. Dershowitz**
**Case No.: CACE 15-000072**
Plaintiffs' Motion to Compel Production of Documents

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IN THE CIRCUIT COURT OF THE
SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA

CASE NO.: CACE 15-000072

EDWARDS, *et al.*,

Plaintiffs / Counterclaim Defendants,

v.

DERSHOWITZ,

Defendant / Counterclaim Plaintiff.
_______________________________________________/

# DEFENDANT / COUNTERCLAIM PLAINTIFF ALAN M. DERSHOWITZ'S OBJECTIONS AND RESPONSES TO PLAINTIFFS' INITIAL REQUESTS FOR PRODUCTION

Defendant/Counterclaim Plaintiff Alan M. Dershowitz ("Defendant") submits the following objections and responses to the Plaintiffs' Initial Request for Production ("Document Requests") propounded by Plaintiffs/Counterclaim Defendants Bradley J. Edwards and Paul G. Cassell ("Plaintiffs").

## PRELIMINARY STATEMENT

These responses and objections reflect the current state of Defendant's knowledge regarding the matters discussed herein. Defendant has not completed his discovery or trial preparation in this matter. Accordingly, Defendant reserves the right to revise, correct, clarify, supplement, or amend his objections and responses to reflect information hereafter discovered or acquired. These responses and objections are provided without prejudice to the rights of Defendant to use or rely upon subsequently discovered information or documents at any time, including at trial. The fact that a Document Request has been complied with in part shall not be construed as a waiver of all or any part of any objection that Defendant might or could make to

**EXHIBIT A**

any Document Request propounded by Plaintiffs. Defendant further reserves the right to object to the admission in evidence of any and all information made available in response to the Document Requests on any ground, including, but not limited to, the ground that it is irrelevant and immaterial to the issues in this action.

## GENERAL OBJECTIONS

1. The General Objections and statements in this section apply to each of Defendant's responses to the Document Requests set forth below and are not necessarily repeated in response to each individual Document Request.

2. By responding to the Document Requests, Defendant does not concede that any information requested is relevant to this action or admissible at trial. Defendant expressly reserves the right to object to further discovery on the subject matter of any of these Document Requests.

3. Defendant's responses set forth below include only documents located or obtained up to the date of service of the responses. Additional responsive, non-privileged documents may be ascertained or identified subsequently, and Defendant reserves the right to rely on such documents throughout this litigation and at trial.

4. Defendant objects to each Document Request to the extent that it calls for documents protected by the attorney-client privilege, the work-product doctrine, or any other applicable privilege or protection. By responding to any Document Request, Defendant does not waive any applicable privilege as to that Document Request or as to any other present or future discovery request.

5. Defendant generally objects to the Document Requests as unduly burdensome and oppressive to the extent that they ask Defendant to provide information that is beyond

Defendant's possession, custody, or control; is publicly available; is already in Plaintiffs' possession, care, custody, or control; or is generally available to Plaintiffs.

6. Defendant generally objects to the Document Requests to the extent that the information sought is not identified with sufficient particularity.

7. Defendant objects to the definition of "Documents" to the extent that it seeks the production of things beyond the scope of Rule 1.280 of the Florida Rules of Civil Procedure. Defendant further objects to the definition of "Documents" to the extent that it seeks "electronic data as well as application metadata and system metadata" and "inventories and rosters of your information technology (IT) systems – e.g., hardware, software and data, including but not limited to network drawings, lists of computing devices (servicers, PCs, laptops, PDAs, cell phones, with data storage and/or transmission features), programs, data maps and security tools and protocols" as overly broad and unduly burdensome.

## RESPONSES TO REQUESTS

1. Copies of any and all documents reflecting or relating to any and all occasions on which you have been physically present on Little Saint James Island including but not limited to your visit to Little Saint James Island, as described in paragraph 3 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control relating to the sole occasion on which Defendant was physically present on Little Saint James Island.

2. Copies of any and all documents evidencing the presence of your wife and daughter on Little Saint James Island, as described in paragraph 3 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

3. Copies of any and all documents reflecting or relating to any and all occasions on which you have been physically present at Jeffrey Epstein's Ranch in New Mexico including but not limited to your visit to Jeffrey Epstein's Ranch in New Mexico, as described in paragraph 4 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control relating to the sole occasion on which Defendant was physically present at Jeffrey Epstein's Ranch in New Mexico.

4. Copies of any and all documents evidencing the presence of your wife and daughter at Jeffrey Epstein's Ranch in New Mexico, as described in paragraph 4 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

5. Copies of any and all documents evidencing the presence of your wife and daughter on Jeffrey Epstein's private plane, as described in paragraph 5 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

6. Copies of any and all documents evidencing the presence of your nephew on Jeffrey Epstein's private plane, as described in paragraph 5 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

7. Copies of any and all documents evidencing the presence of "members of Mr. Epstein's legal team", as described in paragraph 5 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Defendant objects to this Document Request as overly broad because Jane Doe #3 alleges in the filing titled "Jane Doe #3 and Jane Doe #4's Motion Pursuant to Rule 21 For Joinder In Action" (Doc. No. 279) (the "Joinder Motion") in the civil action captioned *Jane Doe #1, et al. v. United States*, Case No. 08-80736 (S.D. Fla.) (the "Federal Action") that she was "kept as [Jeffrey Epstein's] sex slave from about 1999 through 2002." Jane Doe #3 further alleges in the Joinder Motion that she "escape[d]" from Mr. Epstein and moved to Australia in 2002. Paragraph 5 of the sworn Declaration of Alan M. Dershowitz refers to plane travel by members of Mr. Epstein's legal team after 2002 and therefore Defendant further objects because this Document Request does not seek documents relevant to this action or documents reasonably calculated to lead to the discovery of admissible evidence.

8. Copies of any and all flight manifests reflecting your presence or the presence of any member of your family on any aircraft on which Jeffrey Epstein was also a passenger during the same flight.

**RESPONSE:**

Defendant responds that he has no responsive, non-privileged documents.

9. Copies of any and all "absolute proof" as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Defendant objects to this Document Request to the extent that Plaintiffs seek to alter or shift any burdens of proof as a matter of law in this action. Subject to and without waiving the foregoing specific objections and General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

10. Copies of any and all documents supporting the allegation that "Jane Doe #3 is a serial liar" as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

11. Copies of any and all documents tending to establish that President Clinton has never visited Jeffrey Epstein's island, Little Saint James, as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Defendant objects to this Document Request because it misstates paragraph 8 of the sworn Declaration of Alan M. Dershowitz, which expressly states that "*on information and belief,* I have been advised that *Secret Service records* would confirm that President Clinton has never set foot on that island." (Emphasis added). Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds that he has no responsive, non-privileged documents.

12. Copies of any and all documents evidencing that Jane Doe #3 "has also told lies about many world leaders" as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Defendant objects to this Document Request because it misstates paragraph 8 of the sworn Declaration of Alan M. Dershowitz, which expressly states that "*on information and belief,* [Jane Doe #3] has also told lies about many world leaders." (Emphasis added). Defendant further objects to this Document Request because it seeks documents already in Plaintiffs' possession and/or that are publicly available. Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds by reference to statements by Jane Doe #3 reflected in the media, which are equally available to Plaintiffs.

13. Copies of any and all documents evidencing that "the State Attorney in Palm Beach County dropped a case that she sought to bring based on an assessment by the investigating detective regarding the 'victim's lack of credibility'" including a copy of the letter reflecting this decision as described in paragraph 8 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Defendant objects to this Document Request because it misstates paragraph 8 of the sworn Declaration of Alan M. Dershowitz, which expressly states that "*on information and belief,* the State Attorney in Palm Beach County dropped a case that she sought to bring based on an assessment by the investigating detective regarding the 'victim's lack of credibility.' *A copy of the letter reflecting this decision was forwarded to central records.*" (Emphasis added). Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

14. Copies of any and all documents evidencing that the attorneys for the Jane Does acted "in bad faith in an effort to have the media report it" as described in paragraph 9 of the sworn Declaration of Alan M. Dershowitz.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

15. Copies of any and all documents reflecting that Jane Doe #3 has charged President Bill Clinton with having sex with her on Jeffrey Epstein's Little Saint James Island.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

16. Copies of any and all documents reflecting that Jane Doe #3 has alleged that President Bill Clinton had sex or engaged in any inappropriate contact with her on the Island owned by Jeffrey Epstein.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

17. Copies of all pages of Passports held by you at any time during the past 12 years.

**RESPONSE:**

Defendant objects to this Document Request as seeking sensitive personal information and documents that are not relevant to the subject matter of the pending action.

18. Copies of any and all documents reflecting that Jane Doe #3 has ever willfully engaged in prostitution.

**RESPONSE:**

Defendant objects to this Document Request as vague because Defendant is not in a position to determine the willful nature of Jane Doe #3's prostitution. Defendant further objects to this Document Request because Jane Doe #3 has repeatedly and publicly asserted that she gave her body for sexual activity for hire after the age of 18 and agreed to secure other persons for the purpose of prostitution or for any other lewd or indecent act and therefore the Document Request is unduly burdensome.

19. Copies of any and all documents reflecting that Jane Doe #3 is either a liar or has perjured herself in any way.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

20. Copies of any and all documents tending to support your assertion that Bradley J. Edwards:

a. has a reputation of being sleazy;

b. has acted in a sleazy manner;

c. has engaged in unethical conduct;

d. has knowingly relied upon false statements in any legal document filed by him;

e. has engaged in any form of unethical conduct;

f. has engaged in any form of conduct tending to demonstrate a lack of fitness to engage in the practice of law;

g. has engaged in any form of conduct warranting the loss of his license to practice law or the imposition of any professional disciplinary action against him;

h. has acted in a corrupt manner;

i. failed to conduct any investigation of the allegations of Jane Doe #3 relating to you before referring to those allegations in a legal filing.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

21. Copies of any and all documents tending to support your assertion that Paul G. Cassell:

a. has a reputation of being sleazy;

b. has acted in a sleazy manner;

c. has engaged in unethical conduct;

d. has knowingly relied upon false statements in any legal document filed by him;

e. has engaged in any form of unethical conduct;

f. has engaged in any form of conduct tending to demonstrate a lack of fitness to engage in the practice of law;

g. has engaged in any form of conduct warranting the loss of his license to practice law or the imposition of any professional disciplinary action against him;

h. has acted in a corrupt manner;

i. failed to conduct any investigation of the allegations of Jane Doe #3 relating to you before referring to those allegations in a legal filing.

**RESPONSE:**

Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control.

22. Copies of any and all records for the period 1998-2007 reflecting or relating to travel by you and/or any member of your family on any aircraft, boat, helicopter, or other means of transport owned, controlled, or under the direction of Jeffrey Epstein and/or any business entity with which Jeffrey Epstein was affiliated at the time of travel.

**RESPONSE:**

Defendant objects to this Document Request as overly broad because Jane Doe #3 alleges in the Joinder Motion that she was "kept as [Jeffrey Epstein's] sex slave from about 1999 through 2002." Jane Doe #3 further alleges that she "escape[d]" from Mr. Epstein and moved to Australia in 2002. Therefore Defendant objects to this Document Request to the extent that it purports to seek documents relating to any time before 1999 or after 2002. Defendant further objects to this Document Request as overly broad and premature because Jane Doe #3 has not specified the dates on which she alleges Defendant engaged in misconduct on Mr. Epstein's plane, which are the sole relevant allegations by Jane Doe #3 or her counsel concerning travel on Mr. Epstein's plane that Defendant refutes and asserts are false. Subject to and without waiving the General Objections, Defendant responds that he will produce all responsive, non-privileged documents currently in his possession, custody or control relating to any occasions that may be specifically identified by Jane Doe #3 on which she contends that Defendant travelled on Jeffrey Epstein's plane between 1999 and 2002.

23. Copies of any and all records, including emails and text messages, between you and Jeffrey Epstein between December 29, 2014 and today, regarding allegations made by Jane Doe #3 of sexual misconduct by either of you.

**RESPONSE:**

Defendant objects to this Document Request to the extent that it seeks documents regarding allegations made by Jane Doe #3 of sexual misconduct by Jeffrey Epstein because such documents are not relevant to the subject matter of this action and would be attorney-client privileged communications in any event. Subject to and without waiving the foregoing specific objections and the General Objections, Defendant responds that he will produce any responsive, non-privileged documents currently in his possession, custody or control.

Respectfully submitted,

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## CERTIFICATE OF SERVICE

WE HEREBY CERTIFY that a true and accurate copy of the foregoing was served via E-Serve this 23rd day of February, 2015 to: Jack Scarola, Esquire, Searcy Denny et al., jsx@searcylaw.com and mep@searcylaw.com, counsel for Plaintiffs/Counterclaim Defendants.

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**VIA EMAIL**
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February 25, 2015

Thomas Emerson Scott, Jr., Esquire
Cole Scott & Kissane P.A.
9150 S Dadeland Boulevard, Suite 1400
Miami, FL 33156

Re: Edwards and Cassell vs. Dershowitz
Our File No.: 20150013

Dear Tom:

I write in the hope of amicably resolving a number of issues that arise in connection with the discovery responses you have provided in the referenced matter.

### *Responding "Subject to and Without Waiving" Objections and Claims of Privilege*

It is a common and improper tactic to state "general objections" (or even specific ones) and then to respond to every request "subject to" those objections or claims of privilege. We cannot accept such responses. When this occurs, even if responsive information is forthcoming, we have no guarantee that you have not unilaterally withheld information subject to the stated objections or claims of privilege; in other words, it shields the very existence of responsive matters from discovery without any ability to assess the merits of the objection or claim of privilege as applied to the ostensibly protected matters. A federal court described the problem:

> This Court has on several occasions "disapproved [of] the practice of asserting a general objection 'to the extent' it may apply to particular requests for discovery." This Court has characterized these types of objections as "worthless for anything beyond delay of the discovery." Such objections are considered mere "hypothetical or contingent possibilities," where the objecting party makes '"no meaningful effort to show the application of any such theoretical objection' to any request for discovery."

**EXHIBIT B**

> Thus, this Court has deemed such "ostensible" objections waived or [has] declined to consider them as objections.

*Sonnino* v. *Univ. of Kan. Hosp. Auth.*, 221 F.R.D. 661, 666-67 (D. Kan. 2004) (citations omitted).

Of course, where claims of privilege are involved, the response must include a privilege log enabling us (and the court, if necessary) to assess the applicability of the privilege claimed. *See* Fla. R. Civ. P. 1.280(b)(5). Under Florida law, "the burden is upon the party asserting a privilege to establish the existence of each element of the privilege in question." *Fla. Sheriff's Self-Ins. Fund v. Escambia County,* 585 So.2d 461, 463 (Fla. 1st DCA 1991).

General or blanket objections are inappropriate in and of themselves: "A 'blanket' objection to interrogatories consisting of many, separate questions is insufficient. Objections in such a case should be addressed 'to a particular interrogatory or class of interrogatories, not to the interrogatories in general." *Twadell v. Twadell,* 199 So. 2d 501 (Fla. 4th DCA 1967) (quoting *Carson* v. *City of Ft. Lauderdale,* 173 So.2d 743 (Fla. 2d DCA 1965)).

The same principles apply to the general objections you have raised to our production requests.

## *Boilerplate Objections*

A boilerplate objection such as "overbroad, burdensome, and not reasonably calculated to lead to the discovery of admissible evidence," baldly asserted, is "patently without merit." Such "stonewalling tactics" constitute discovery abuse. *First Healthcare Corp. v. Hamilton,* 740 So.2d 1189, 1193 (Fla. 4th DCA 1999); *see also First City Devs. Of Fla., Inc. v. Hallmark of Holly Condo. Ass 'n,* 545 So.2d 502, 503 (Fla. 4th DCA 1985) (noting that conclusory objections such as "burdensome" and "not reasonably calculated ..." are "words of the art [that] have little meaning without substantive support, ..").

Every burdensome objection you have raised is required to be supported by an affidavit detailing the extent of the burden claimed to preclude a substantive response.

### *Asserting Privilege for Non-Existent Documents*

It is inappropriate to assert a claim of privilege or immunity for non-existent materials. *Greenleaf v. Amerada Hess Corp.*, 626 So.2d 263, 264 n.1 (Fla. 4th DCA 1993). We must assume that the privilege is asserted for a reason, i.e., that responsive and ostensibly privileged information in fact exists, else the privilege would not have been asserted. It follows that a privilege log must accompany all such responses.

### *Claiming Undue Burden for Non-Existent Materials*

Likewise, objecting on basis of burdensomeness and later conceding an opponent's right to materials or later claiming materials do not exist constitute abusive discovery practices. *First Healthcare Corp. v. Hamilton*, 740 So.2d 1189, 1194 (Fla. 4th DCA 1999).

### *Custody, Possession & Control*

Fla. R. Civ. P. reaches all documents (broadly defined and specifically including electronic data) in your client's "custody, possession, or control." Custody and possession are self-explanatory. "Control" is broader; it "means the legal right to obtain, even from nonparties. The concept of 'control' generally has been held to mean the legal right to obtain the requested documents. Parties thus can be requested to produce documents in the hands of their attorney, insurer, subsidiary, or another person outside the jurisdiction of the court." Lawrence M. Watson, Jr. & Michael S. Orfinger, *Fla. Civil Practice Before Trial § 16.60 (1993 ed.)* (citing 8 Wright & Miller, *Fed. Practice & Procedure* £16-10 (1998 ed.). A recent federal court case construing Fed. R. Civ. P. 41 (on which Fla. R. Civ. P. 1.350 is patterned), explained:

> The term "control" comprehends not only possession but also the right, authority, or ability to obtain the documents. Accordingly, Rule 34(a) allows a party seeking discovery to require production of documents beyond the actual possession of the opposing party if such party has retained "any right or ability to influence the person in whose possession the documents lie." [A] party is deemed to have control over documents held on its behalf by its attorneys. A party is also deemed to have control over financial records of the party that are in the possession of the party's accountant.

*MGP Ingredients, Inc.* v. *Mars, Inc.*, 2007 WL 3353401 (D. Kan. 2007) (citation omitted); *see also In Re Ski Train Fire of November 11, 2000 Kaprun Austria,* 2006

WL 1328259, at *5 (S.D.N.Y. 2006) ("Courts have long construed the term 'control' as meaning more than simple 'possession.' 'Control has been construed broadly by the courts as the legal right, authority, or practical ability to obtain the materials sought upon demand.'"). *See also Frantz v. Golebiewski,* 407 So.2d 283, 285 n.4 (Fla. 3 DCA 1981) ("Interpretations of the federal rule are persuasive in considering its Florida equivalent.").

While your responses purport to recognize the obligation to produce documents subject to Mr. Dershowitz's "control", there are qualifications in the responses that would appear to contradict that recognition. Your objection to the production of metadata has no legal foundation.

### *Word Play and Gamesmanship*

You will note that we do not include page after page of definitions. I believe that any lawyer reasonably fluent in English can carry out his or her duty to construe interrogatories and requests for production in the broad and liberal manner intended by the rules. Florida courts frown on parsing and gamesmanship. See, e.g. *First Healthcare Corp. v. Hamilton,* 740 So.2d 1189, 1194 (Fla. 4th DCA 1999) (chastising counsel who did not turn over "event" reports because plaintiff requested "incident" reports as engaged in "little more than a semantic shell game.").

Repeated assertions that statements were made by Mr. Dershowitz "upon information and belief" is an example of prohibited "word play." That qualification has no bearing on the Defendant's discovery obligations.

### *"Will Produce"*

The Rules of Civil Procedure require production and not just a commitment of production at some unspecified future date. If the documents you intend to produce are available for inspection and copying now as they are required to be, we are prepared to pick them up immediately. If they are not immediately available, when will they be?

### *Timeframe Objections*

Your repeated attempts to restrict discovery to a narrow timeframe, fail to account for the fact that this is a defamation action arising out of broad defamatory statements made by Mr. Dershowitz impugning the honesty and integrity of the Plaintiffs without any limitations as to a specific time or circumstance. Mr. Dershowitz has also made broad public denials of misconduct unrestricted to any specific timeframe. We are entitled to test the accuracy of those statements and to explore the full extent of the personal relationship he has had with Jeffrey Epstein.

*Evasive Answers*

The response to Interrogatory #2 is a typical example of an evasive response. Rather than address the substance of the questions posed, the Defendant engages in a four page diatribe about the alleged impropriety of naming him in a CVRA filing on behalf of Jane Doe #3. If that is the only improper conduct in which the Defendant contends Bradley Edwards has engaged, then the Defendant is obliged to say so.

Interrogatory #3 asks for the specific content of statements and the names of every witness to the making of the statements. We get a vague reference to "such comments" and references to the inability to "recall all of the people." Not a single witness' name is disclosed. If the Defendant is unable to identify a single person he is obliged to unequivocally say so.

*Refusing to Provide Substantive Responses Until Jane Doe #3 is Deposed*

This objection has absolutely no legal basis and fails to recognize that this is a defamation action against Dershowitz and not Mr. Dershowitz's defamation action against Jane Doe #3. This action is absolutely not dependent on the accuracy of the statements made by Jane Doe #3, although the Plaintiffs were and are confident of the accuracy of those statements.

*Objecting Because You Think We Already Know the Answers*

See for example the Response to Interrogatory #13. There is no legal basis for refusing to provide information because the Defendant believes the Plaintiff already knows the answer or has alternative sources to ascertain some or all of the information requested. An admission from an opposing party carries legal significance that other evidence does not have. We are entitled to Dershowitz's sworn responses regardless of what flight logs purport to show.

*Incomplete Answers*

See, for example, Interrogatory #15. A question that asks for names, addresses, and telephone numbers, is not properly responded to if all we get is, "Thomas and Joanne Ashe, as well as Defendant's wife and daughter."

and we will file an appropriate motion to compel. I would like to focus on substantive disagreements, obtain quick and fair rulings on them, and move on.

Sincerely,

JACK SCAROLA
JS/mep

cc: Bradley Edwards, Esq.
Paul G. Cassell, Esq.

**United States District Court**
**Southern District of Florida**

Virginia L. Giuffre,
Plaintiff,

Case No.: 9:16-mc-81608-DMM
Underlying Case No.: 15-cv-07433-RWS
(Southern District of New York) (Sweet, J.)

v.
Jeffrey Epstein,

Defendant.
_______________________________/

## PLAINTIFF'S SEALED DECLARATION IN SUPPORT OF PLAINTIFF'S REPLY IN SUPPORT OF PLAINTIFF'S MOTION TO COMPEL THE PRODUCTION OF DOCUMENTS AND TESTIMONY FROM JEFFREY EPSTEIN

I, Sigrid McCawley, declare that the below is true and correct to the best of my knowledge as follows:

1. I am a Partner with the law firm of Boies, Schiller & Flexner LLP and duly licensed to practice in Florida and before this Court pursuant to this Court's Order granting my Application to Appear Pro Hac Vice.

2. I respectfully submit this Declaration in Support of Plaintiff's Sealed Reply Motion to Compel the Production of Documents and Testimony from Jeffrey Epstein.

3. Attached hereto as Sealed Exhibit 1 is a true and correct copy of [redacted]'s Phone Records (GIUFFRE006258-GIUFFRE006260).

4. Attached hereto as Sealed Exhibit 2 is a true and correct copy of Jeffrey Epstein's Contact List.

5. Attached hereto as Sealed Exhibit 3 is a true and correct copy of Message Pads Excerpts.

6. Attached here to as Sealed Exhibit 4 is a true and correct copy of Ghislaine

Maxwell Phone List.

7. Attached hereto as Sealed Exhibit 5 is a true and correct copy of Excerpts from June 28, 2016 Deposition of Tony Figuerora.

8. Attached hereto as Sealed Exhibit 6 is a true and correct copy of Excerpts from May 18, 2016 Deposition of [redacted].

9. Attached hereto as Sealed Exhibit 7 is a true and correct copy of Jeffrey Epstein's DDA Statement History.

10. Attached hereto as Sealed Exhibit 8 is a true and correct copy of a Household Banking Account (GIUFFRE007840).

11. Attached hereto as Sealed Exhibit 9 is a true and correct copy of Nude Photographs.

12. Attached hereto as Sealed Exhibit 10 is a true and correct copy of Excerpts from June 20, 2016 Deposition of [redacted]

13. Attached hereto Sealed Exhibit 11 is a true and correct copy Excerpts from March 17, 2010 Deposition of Jeffrey Epstein.

I declare under penalty of perjury that the foregoing is true and correct.

Sigrid McCawley, Esq.

Dated: October 21, 2016.

Respectfully Submitted,
BOIES, SCHILLER & FLEXNER LLP

By: ______________________
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Paul G. Cassell (Pro Hac Vice)
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University of Utah
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Salt Lake City, UT 84112
[redacted]

---

[1] This daytime business address is provided for identification and correspondence purposes only and is not intended to imply institutional endorsement by the University of Utah for this private representation.

## CERTIFICATE OF SERVICE

**I HEREBY CERTIFY** that on the 21st day of October, 2016, I electronically filed the foregoing document with the Clerk of Court by using the CM/ECF system. I also certify that the foregoing document is being served to all parties of record via transmission of the Electronic Court Filing System generated by CM/ECF.

Laura A. Menninger, Esq.
Jeffrey Pagliuca, Esq.
HADDON, MORGAN & FOREMAN, P.C.
150 East 10th Avenue
Denver, Colorado 80203
[redacted]

Sigrid S. McCawley

EXHIBIT 1

05-368
ATTACHMENT
12-29-05

[redacted]s CALLS

| DATE | NUMBER | REGISTERED TO : | TIME | OUT/IN |
|---|---|---|---|---|
| 9/3/2005 | 561-714-0546 | [redacted] | 10:37A | OUT |
| 9/3/2005 | 561-714-0547 | [redacted] | 10:40A | OUT |
| 9/3/2005 | 561-776-5679 | T.A. Rofano | 11:37A | IN |
| 9/3/2005 | 561-655-2779 | Jeffrey Epstein | 1:53P | IN |
| 9/3/2005 | 561-662-3098 | | 1:55P | OUT |
| 9/3/2005 | 561-389-6874 | | 1:57P | OUT |
| 9/4/2005 | 561-655-7626 | Jeffrey Epstein | 10:42A | OUT |
| 9/6/2005 | 561-499-1718 | S Rosen | 8:08A | OUT |
| 9/10/2005 | [redacted] | [redacted] | 4:43P | OUT |
| 9/10/2005 | 561-655-7626 | Jeffrey Epstein | 7:53P | OUT |
| 9/11/2005 | 561-655-7626 | Jeffrey Epstein | 8:03A | IN |
| 9/14/2005 | 561-317-5844 | | 8:25A | OUT |
| 9/14/2005 | 561-317-5844 | | 5:98P | OUT |
| 9/14/2005 | 561-317-5844 | | 7:27P | OUT |
| 9/14/2005 | 561-317-5844 | | 7:35P | IN |
| 9/15/2005 | [redacted] | [redacted] | 10:17A | OUT |
| 9/18/2005 | 561-818-8361 | | 9:57A | OUT |
| 9/18/2005 | 561-714-0546 | [redacted] | 9:58A | OUT |
| 9/18/2005 | [redacted] | [redacted] | 9:59A | OUT |
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| 9/18/2005 | 561-662-3098 | | 10:05A | OUT |
| 9/18/2005 | 561-655-7626 | Jeffrey Epstein | 10:20A | OUT |
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| 9/18/2005 | 561-389-6874 | | 1:10P | OUT |
| 9/18/2005 | 561-389-6874 | | 4:10P | IN |
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| 9/19/2005 | [redacted] | [redacted] | 11:45A | IN |
| 9/19/2005 | [redacted]26 | Jeffrey Epstein | 1:54P | IN |
| 9/19/2005 | 561-776-5679 | T.A. Rofrano | 2:01P | IN |
| 9/20/200[redacted] | [redacted] | [redacted] | 12:10A | IN |
| 9/20/2005 | 561-317-5844 | | 7:20P | IN |
| 9/20/2005 | 561-317-5844 | | 7:22P | IN |
| 9/20/2005 | 561-317-5844 | | 7:22P | IN |
| 9/21/2005 | 561-818-8361 | | 1:46P | IN |

05-368

PLAINTIFF'S
EXHIBIT
26

| | | | | |
|---|---|---|---|---|
| 9/21/2005 | 561-655-7626 | Jeffrey Epstein | 1:47P | IN |
| 9/21/2005 | 561-655-7626 | Jeffrey Epstein | 1:48P | IN |
| 9/28/2005 | 561-844-4112 | ADVENTURE TIMES | 11:29A | IN |
| 9/29/2005 | 561-818-8361 | | 9:07A | OUT |
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| 9/29/2005 | [redacted] | [redacted] | 12:43P | OUT |
| 9/29/2005 | [redacted] | [redacted] | 12:46P | IN |
| 9/29/2005 | [redacted] | [redacted] | 12:47P | OUT |
| 9/30/2005 | 561-655-7626 | Jeffrey Epstein | 9:13A | IN |
| 9/30/2005 | 561-655-7626 | Jeffrey Epstein | 10:29A | IN |
| 9/30/2005 | 561-655-7626 | Jeffrey Epstein | 10:34A | IN |
| 9/30/2005 | [redacted] | [redacted] | 7:06P | IN |
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| 10/3/2005 | 561-655-7626 | Jeffrey Epstein | 7:27P | OUT |
| 10/4/2005 | [redacted] | [redacted] | 9:36A | OUT |

| | | | | |
|---|---|---|---|---|
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| 10/4/2005 | 561-655-7626 | Jeffrey Epstein | 10:33A | OUT |
| 10/4/2005 | [redacted] | [redacted] | 10:58A | OUT |
| 10/4/2005 | 561-655-7626 | Jeffrey Epstein | 11:08A | IN |
| 10/4/2005 | [redacted] | [redacted] | 11:15A | IN |
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| 10/4/2005 | [redacted] | [redacted] | 4:30P | OUT |
| 10/4/2005 | [redacted] | [redacted] | 8:35P | OUT |

EXHIBIT 2

— CONFIDENTIAL —

Visitors Massage (P.B)

[redacted]

[redacted]

[redacted]

[redacted]

- CONFIDENTIAL -

Important e-mail / addresses

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– Tim Newcombe (Citrix Systems Programmer)
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H.

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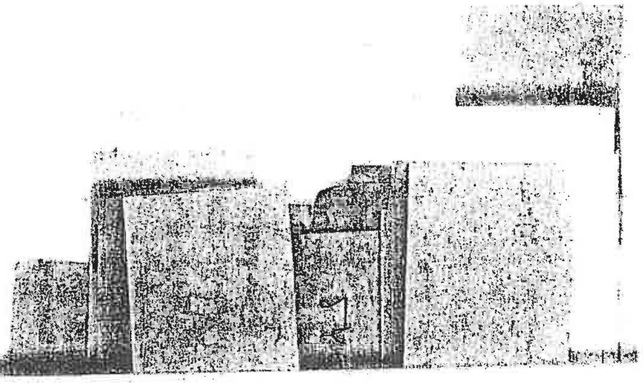
70)274-0323 – Joe Pagano (Chef - Aspen, CO,)
(Important Witness) – Christophe (French Driver) P.B [redacted]
→ (Jet Aviation)

→ Secret Service Personnel escorting
Mr. Barak, Ehud Former P.M of Isreal on
J. Epstein planes.-
P ★ ★ → Jean-Luc Brunel "Scout" for young females
Karin Models [redacted]
– David Copperfield (Magician) [redacted]
– Eva Andersson (Former model & mother of naked pic
(Dubin) [redacted]
– David Cook Palm Beach (2004-2005) Witness,
interacted and chat daily w/ underage girls.-



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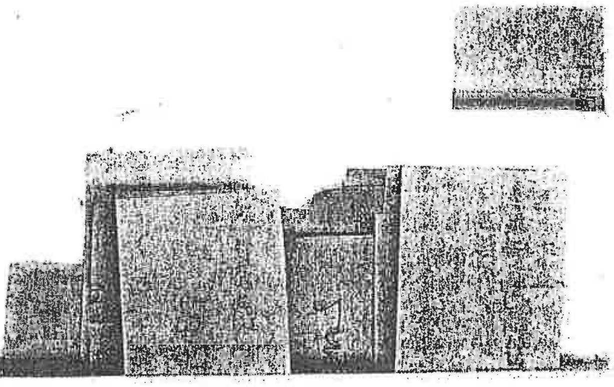

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0207 930 4237 (wf)

**Alvarez, Senor Vincente**
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011 34 915 903490 (w)
00 34 1 563 8466 (f)

**Amon, Mr Philippe**
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00 41 21 821 2222(h)
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00 41 792103175 (p)
00 41 21 627 5920 (w)
0041 21 821 2200 (hf)
41 21 627 5925 (wf)

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001 212 319 2020 (w)

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001 212 446 4900 (wf)

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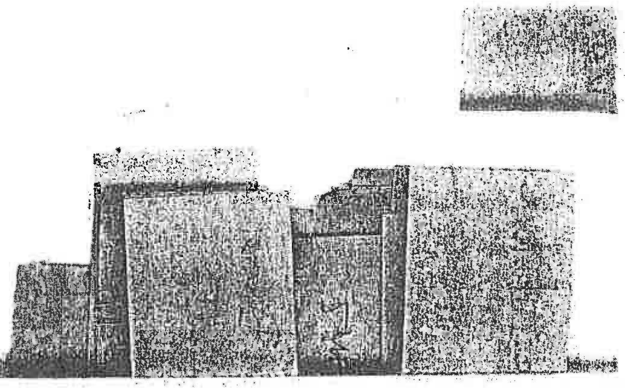
00 852 2817 4181 (h)
00 852 2817 4281 (hf)
00 852 2536 4567 (Rw)
00 852 2147 2813 (wf)
00 852 9104 2615 (Rp)

**Arango, Maite**
Espalter #10 (home)



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011 34 91 420 3776 (h)
00 34 63 913 6063 (P)

**Arellano, Victor**

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212 757 0915ext. 201

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portable 01 917 626 5800
0101 212 772 7057 Home Fax

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1 212 535 7374 (h)
1 888 533 9632 (b)

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212 879 8204 (wf)
212 879 2670 JE Line 3

212 879 8013 Guest Modem
371432863 Resale Number
212 202 4941 New E-fax
1 800 335 4685 AT&T World Connect
917 690 8794 Joseph (p)
917 499 7936 Florina (p)
800 335 4685 World connect chip SIM
917 842 5755 Scott cell
201 493 7647 Scott (h)
866 782 3274 Scott (w/Howie)
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212 879 9366 GM Line 1
212 879 2058 GM Line 2
212 879 9459 (hf)
212 535 7871 JE Line 2
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212 535 6831 Guest
212 472 6991 Staff
212 535 3030 (w) Line 1
212 535 6833 (w) Line 2
212 535 4384 (w) Line 3
212 535 5611 (w) Line 4
212 535 6837 Spare office
212 249 8510 71st St
212 717 4672 71st St (f)
917 520 3106 (p)try first
917 497 4880 (p)
01144 7785 771552 GSM#
917 494 9690 Tahoe-Line 1(621)
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561 346 7141 PB Merc.
1 877 358 9350 Flight Options
212 744 5511 Tahoe Garage
1 888 387 4383 Etrieve
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9366 Etrieve security code
212 535 8817 Rich's Security

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301 East 66th
212 744 5511(George)

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001 212 838 0440

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303-925-8900

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**Avis International**
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**Bel Air Hotel**
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*Frank Bowling*
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Los Angeles, CA 90077
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310-476-5890
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Manager Marc

**Beverly Hills Hotel**
9641 Sunset Blvd.
Beverly Hills, CA 90210
310-276-2251
310-271-0319
310 887 2887 fax

**Beverly Wilshire**
001 310 275 5200

**Bice**
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001 212 688 1999

**Bilboquet**
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777 2500

**Carlyle**
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001 212 744 1600

**Christies- New York**
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JE's Acct# 20745
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212 636 2010
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0207-581 7611 S. Ken
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0207-589 4181 (h)Franka
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212 636 2515 Maria Loss - Client Services
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376 West Broadway
New York, NY 10012
212 343 0999

**Coffee Shop**
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**Cohen Gibby**
Polly Gym
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176 E. 71st St Penthouse
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Email: Gibby-Cohen@nyc.rr.com
(Hm)Patti-Cohen@nyc.rr.com
001 212 628 6969(gym)

**Cook**
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001 212 924 6160(h)
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**Dawat Haute Cuisine of India**

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001 212 779 9645

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212 772 2242

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212 737 5947 Jessica Benton(h)
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**Four Seasons Hotel**
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212-754-1077

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212 688 3939

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212-247-2200
212-903-3949

**Pierre Hotel**
2 East 61st Street
New York, NY 10021
212-838-8000

**Plaza**
001 212 759 3000

**Plaza Athenee Hotel**

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New York, NY 10021
212-734-9100

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**Royalton**
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(between 5th & 6th)
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001 212 606 7683 Sotheby's
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New York, NY 10022
001 212 753 4500

**Stanhope Hotel**
212 774 1234

**Sunset Marquee**
0101 213 657 1333

**Tao Restaurant**
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bet. Madison/Park
001 212 888 2288

**Taylor, The**
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001 212 535 8940

**The Great American Health Bar**

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New York
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**The Lowell**
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**Westbury hotel**
212 535 2000

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**Nikitas**
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**Patisserie Valerie**
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**Scalinis**
225 23 01

**Tramp**
071-734 3174

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3715 659 404 44006 Card number
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**Chemical Bank**
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Barbara Parsley Wire Dept.
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Stop payment no. 935-9935
212-980-8573

**Colonial Bank**
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561 833 0943 (f)
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01865 20 5157 (f)
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01865 79 88 18 Main number

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1865 790053
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**Cabaret (night club)**
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*Mr. Baccart*
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**Chateau de la Messardier**
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**Chez Denise**
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0153 43 4300 Jean Marie (w)
01 698 99475 Jean Marie (h)
06 11 999 322 Jean Marie (p)
061 30 14 377 (p) Valdson Cotrin
0 148 27 85 33 (h) Valdson Cotrin
01 40 67 18 82 staff line
01 45 00 44 78 Mr. Cornu/garage
06 77 81 5521 car phone
06 8072 7282 Evelyn
06 10786479 Mr. Coulaux(p)
0607 269 785 Experton(p)
0144 014 401 Experton (w)
331 441 702 19 guest line
331 44 86 4552 Ms. Guerin
01 45 00 88 90 Ms. Peres(conc.)
01 45 00 30 79 Ms. Peres
06 09 592 853 Ms. Peres (p)
331 44 01 4401 Mr. Stephane Coulaux
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01 698 99 475 Jean Marie @ home
06 11999322 Jean Marie cell
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01133 148 27 85 33 (h) Valdson Cotrin
01 40 67 18 82 staff line
01 45 00 44 78 Mr. Cornu/garage
06 77 81 5521 car phone
Evelyn 0680 727282
331 441 702 19 guest line
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01 45 00 30 79 Ms. Peres
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06 62 31 88 55 Mr Pascal cell(cable tv)
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06 09 65 65 55 Mr. Karin or Lazno cell(stereo
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06 62 96 04 67 Mr. Tourteau cell(videophone)
01 40 60 93 93 Mr. Belistan(alarm)
06 09 21 15 15 Mr. Belstan cell (alarm)
01 42 71 99 93 Mr. Domenichini(electricity)
06 07 34 50 84 Mr. Domenichini cell (electric
01 42 39 11 90 Mr.Lafond(a/c, heat, plumbing)
06 07 80 25 51 Mr. Lafond cell(a/c,heat,plumb
06 08 03 42 71 Mr. Pasquer cell(a/c,heat,plum
06 12 14 37 56 Mr Santos

**Experton, Marie Joseph**
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011 32 2538 22 46FAX
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011 32 474 95 0073 Belgian Cellular
011 33 607 26 9785 French Cellular
01133144014401 Berlioz France(w)
01133144159415 Berlioz France Fax

**Gerard**
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331 44 71 1500

**Hotel Raffael**
4428 0028

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+34 952 77 8425 (Spain)
+34 95 277 0294 (Spain fax)
+34 699 212 298 (Spain p)
917 250 6416 (p)
212 223 7167
011 44 370272428 portable
212 223 3463 New York f

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Rue de Varene
7eme
Rue de Varene

**L'Arc**
Rue Pulsile
33 1 4500 4500

**L'Arpege**
00 33 1 4551 4733

**La Merlot**
Rue de la cherche midi

**La Poste**
00 33 1 4280 6616
9 rue Peronaid

**Lagardere, Betty**
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01 40 69 17 25
06 85 755 555
06 85 754 444
01 53 593 575
01 53 593 574 (f)

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06 1078 6479 Stephane Coulaux (p)
01 4401 4401 Geraldine Talavera (w)

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Rue Lille

6eme

**Le Voltaire**

**Madame Lemercier**
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00 33E 160460293 (h)

**Maid**
01 48 49 07 50 Faiza (Jeanmarie'sBurlet's)
06 16 79 25 49 Faiza's cell
01 45 39 28 93 Anne-France

**Massage - Paris**
Claudia Hadida 0494791726(St T
331 4262 3091 Debbie/ Paris
331 4299 8800 Marie Francois
331 4763 3301 Rosemary
336 8280 5320 Alexandria
336 7043 8359 Carolina
336 7043 8359 Caroline
336 1409 3317 Debra Wakshal
336 0740 4991 Isabelle
336 6091 5535 Stephan(better than Gypsy!)
331 4244 5033 Bastien-foot massage
3314266 2422 Bastien-foot massage
334 9487 2631 Deborah
336 6063 3127 Francois
336 1117 5286 Suzanne(Nicole's contact)
336 6098 3802 Corine-thai (Nicole's contact)
336 6261 7962 Karine (Nicole's

contact)
3314766 3727 Karine (Nicole's contact)
336 6520 0066 Deborah (p)
0661100404 (p) Laetitia
0682940794 Magdali
336 606 33172 Francois
011 336 6760 8207 Donna
011 331 4658 1508 Donna
011 336 1109 9059 Yelena
01133609635180 Nadia
06 2247 4450 Deborah
0609635180 Nadia
0662384798 Sonya (speak little English)
0666033635 Tanya (speaks NO English)
01133624604141 Nadia (USE THIS as of 4-9-03)

**Miele, Mr & Mrs**
00 33 9301 3359 ( h)
00 33 9306 1179 ( c)
00 33 9306 1273 ( c)
00 33 9301 2196 ( fax)

**Ott Cynthia and Claude**
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011 33674 003080 (cp
Email: 011 33 686 558377 (claude
01133 153 05 70 83 (w)direct
01133 153 05 70 98 (f)

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011 331 4418 7575(h)
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Paris, France 75007
011 331 4753 8421 (h) Linda
001 809 362 4335 Nassau
001 809 362 4336 Nassau
011 331 4013 7580 (f)
011 33 60 770 2913 (p) Linda
011 33 6077 31338 (p)Alberto
011331 45 51 03 33 Serge Boquet
011336 07 17 07 24 Serge Boquet 3/2000
011 33 67 800 4392 (p)Serge
011 33 680010222 Car
011 33 140 137 596 Linda dir.
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011331 45 51 45 58 Danielle
01133 609 18 11 26 (p) Jean
01133 609 78 68 26 Yves
01133 662 62 71 36 Chantal
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01121239933939 Pinto in Morrocco
011 212 39 93 7171 Morrocco fax
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33 1536 766 66 (f)

**Restaurant-takeouts**
Sushi 01 56 26 00 55

**Restaurants**
Entrecote
15 rue Marbeauf
0149520717

**Ritz - Paris**
15, Place Vendome Cedex 01
Paris, France 75041
331-4316-3030
331-4316-3178(f)
331-4286-0091 Direct Fax Reservations

**River Cafe**
00 33 1 4093 5020
146 quai de Stalin grad

**Tante Louise**
41 Rue Boissy d'anglais
00 331 4265 0685

**Taxi Bleus**
01 49 36 10 10

**Taxis**
00 331 420 24202
00 331 49 361010
00 331 420 39999
00 331 420 06789

**Taxis Bleus**
0149 36 10 10

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0613 011 763 Maria (p) girlfriend
0144 778 840 Maria (w)

## HOTELS (HT)

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0207 235 6000

**Blakes**
071-370 6701

**Carlton Tower**
071-235 5411

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44 207 499 2210 (f)

**Cliveden House**
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011441717306466
062-866-8561

**Connaught**
071-499 7070

**Dorchester**
071-629 8888

**Lanesborough Hotel**
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*Geoffrey Gelardi*
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44 207 259 5606 (f)

4471-333-7633 Private fax. 8/2

**Ritz**
071 493 8181

**Savoy**
071-836 4343

**The Barcley Hotel**
London,
0207-235-6000

**Waterside Inn**
0628 20691

## ISLAND(I)

**Air Center Helicopter**
340-775-7335 Nicholas & Tina (o)
340-774-0976 home
340-690-1012/11 cell

**Christopher Taxi**
340-690-1581 (cell)
340-777-5092 (home)

**Cox, Madison**
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917 495 9399 (p)
01121263526382 Moroco p

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340 777 9181Offic(f)
Email: cathmile@yahoo.com
(Hm)manager@littlestjeff.com
340 774 1611 staff 1
340 775 7335 Air Center Helicopter
340 690 1012 Nicolas (p)
340 777 5334 Gretchen(h)
340 774 0056 JE 1
340 714 0805 JE 2
340 714 0806 JE 3
340 774 3578 JE 4
340 771 2680 JE (p)
340 777 4414 JE Study (f )
340 714 2552 GM
340 771 2679 GM (p)
340 771 2024 Miles (p)
340 771 4897 Cathy (p)
340 714 0807 Staff 2
340 771 1523 Cell Backup 1
340 771 3828 Cell Backup 2
340 771 2032 Boscoe Hague(p)
340 777 0669 Boscoe (b)
340 771 1339 Bruce White(p)
340 771 6264 Tim Cook
340 775 6454 Amer. Yacht Harb.
340 776 5970 Amer. Yacht Harb.(f)

340 774 4265 Cottage(f)
340 771 2678 Guest (p)
340 714 0808 Spare (unused)

**Epstein, Jeffrey**
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340 775 2528 (f)
340 775 0093 Leon (h)
340 690 0241 Leon (p)
340 690 3623 Leon (b)
340 775 6971 Dale (h)
340 777 6157 Cecile (h)
340 775 6265 Jeanne (h)
340 775 2770 Lorette (h)
340 774 9599 Jermaine (h)
340 776 1351 Jamie (h)
340 775 6057 Daphne (h)
340 714 3955 Kim (h)
340 690 1443 Cecile portable
340 771 6086 Leon car

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340-774-2030 (f)
617 547 7907 Boston h

340 774 3318 (h)
340 776 8309 (hf)

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340-693-8378 Lynn & Karen Gray (h)
340-776-2414 Muffie Landt
340-777-7049 Zeno (h)
340-626-2913 Zeno (p)
340-693-7617 Kevin Raynold
340 693 9040w Gretchen Rhodes
340 777 5334 Gretchen Rhodes home
310 435 4725 Gretchen's cell

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(Hm)130 East 67th
212 647 7019 Fionna's fax
212 989 1781 xt 34 Fiona's direct line
917 650 8429 (p)
212 989 1781x27 Jennifer

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00 34 958 225521 (f)
00 34 958 250454 (wf)

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340-776-1860 (f)

**Water Taxi**
340-775-6501

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00-972-25-666-156(h)
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00 9723 695569
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**Gil Avi**
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011 972 3 641 7830f

**Gutman, Arik**
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00-972-3-642-1649(o)

**Jerusalem Hyatt**
00-972-2-533-1234

**Neima, Yakhof**
Hovevei Zion #8
Jerusulam, Isarel
00-972-50-997-755(p)
00-972-23692-2020(o)
00-972-23692-2032f
0097 23 691 6271 (w)
0097 23 691 6630 (f)
0097 22 283 697 (h)
001 212 977 4000
001 917 817 6832 (p)

**Olmert, Ehud**
00 97 2 6296014(f)
00 97 2 2 6297997
00972 (2)229 6014

## ITALY (I)

**Torne di Pisa**

Via Mercato 26
87 48 77

**Train Info**
010 39 2 80231

## JEFFREY (J)

**301 East 66th St.**
*Front Desk*
301 East 66th Street
New York, NY 10021
Apt. for Models

212 879 5540
917 857 4546 And.pgr
917 545 6300 Guest cell
212 744 3122 8D
917 242 0111pager Yokosta Caba - cleaning lady
718 466 0373 (h) Yokosta Caba
212 472 4606 2G (Morrison)
212 472 4420 2G (fax)
212 988 8164 3F- (Anna Macedo/Guest)
212 628 3213 3F - (Guest)
212 861 9072 4M (guest)
917 432 1502 4M (not used)
212 585 3170 5P (L&J)
212 628 3931 7J (ans/fax)
212 628 3952 7J - (Jean-Luc/Guest)
212 517 7580 8A (Brent)
212 452 1565 8C (guest)
212 249 4958 10N (Sarah)
212 249 5755 10N (Sarah)
212 517 7779 10B (Dave)
212 737 7975 11P - (guest)
212 737 9536 12C (Larry V)
212 737-9536 12C (f)
212 517 5380 14G - (guest)
917 603 2296 Natty

**Adler, Frederick (Fred) & Cath**
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FL
33480,

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516 287 3553 (h)
516 287 2921 (Cath.)
212 318 3400 (wf)
203-629-5216 (Conn. h)
203-629-5216 (f)
212-888-1520 (h)
212-935-1990 (hf)

**Ali**
212 242 5782 (h)
347 256 7078 (p)
212 334 7480 (w)

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Sweden
561 804 9293 (h)
xxxxx xxxxxx
212 664 6941 (w)NBC
+46 70 566 0463 Mr. Anderson's cell
917 562 3265 (p)
914 669 4651 N.Salem
631 283 5282 Hamptons
011 46 5232 2113 Sweden
011 46 5232 2116 Sweden(f)
646 271 1304 Lulu
917 613 0291 Lulu (p)
914 669 8157 NS fax
44 777 159 6557
914 669 8157 North Salem f
011 46 5227 0397 Parents (winter)

212 751 4583 (w) Glenn
917 887 6349 (car)

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888-620-3515 Beeper
614 746 1445 car
614-370-3225 (p)
614-370-7002 Mobile
614-895-2733 Home Fax
614 415 7186 Sherry Castle
614 939 3070 emergency
614 415 7171 (wf)

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212 758 5700 w
917 373 4083p
(Hm)Four Seasons Hotel(w)
58 E. 58th Street
212 582 6605 (f)
212 754 4432
212 758 5700 work(1-9-03)

**Bandar Prince**
*sec. Cas Elliot*

C/O Martha Grimes
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011 972 5570 2222 Barak's cell
01197256205375 Shimrit (assistants cell)
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310 407 7315 direct fax to Tom's assitant
011336 3048 7995 Euro cell
011 39 3356 172044 Italian portable
011 3933 5765 1775 Tracey
011 3933 5617 2011 David Monahan
808 885 8668 David Monahan (Hawaii)

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212 702 8818(w)
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(Hm)27 East 65th (h)
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New York, NY 10021
718 268 7331 (f)
212 702 8814 (wf)
212 288 3579 Donna Landa - home
718 575 1000 Ossa Prop
908 249 3633 x224 Donna Landa - work
917 612 4137 (p)

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(Hm)Luminus Management
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310 260 4989 (h)
212 615 3424 (w)

212 615 3430 (wf)

**Beck, Jerry**
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***The Limited, Inc.***
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Two Limited Pky
Columbus, Ohio 43230
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614-415-7171

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331 45 63 22 11(f)
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(Hm)(home)
18 Blvd. Georges Sevrat
92 300 Nevilly Sur Seine
0607011918 cell
0140883637 home

**Biddle-Hakim, Sophie**
***Husband: Gilbert Hakim***
Do not send mail to:
249 West 76th Street
Apt 2A
New York, NY 10023
212 873 2344 (h)
(Hm)Send mail to:
1349 Comstock Ave
Westwood, CA 90024
401 423 0495 Parents/ Rhode Island
310 463 5759 (p)
310 553 5218 (h)

**Bjorlin, Nadia**
3 Longboat
Newport Coast, CA 92657
949 500 5555 (p)

413 637 9745
818 404 7575 (p)

**Black, Leon**
***Apollo Management, L.P.***
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between 52nd and 53rd
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212-515-3261 (wf)
Email: black@nyc.apollolp.com
(Hm)Residence
760 Park Avenue
(Entrance on 72)
New York, NY 10021
212 288 5578 (h)
631 283 4650 (h)
914 234 9685 Bedford
212 794 0227 (hf)

**Borden, David**
***President***
***Victoria Inernational Corp.***
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MA
02118,
617-247-4100 (w)
617-247-0038 (wf)
Email: davidaborden@aol.com
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310 286 0279 (wf)
310 722 9948 (p)

**Brown, Coco**
***Brown Companies***
461 Park Ave., South
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10016,
212-683-4400
212-685-0011 (f)
(Hm)59 East 90th
New York
NY, 10028
212-289 55 53 (h)
646 281 8158 (p)
631 537 3714 Country

**Buckingham Research**
*David Keidan*
750 Third Avenue 6th Floor
212 922-5525 or 26
212 922 5717(f)
212 922 5543 Bob Crowley

**Butler Aviation, Newark**
***(new name)***
***Signature Flight Support***

Hanger 15
Newark International Airport
Newark, NJ 07114
201-624-1660

**Campos, Michelle**
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**Cayne, Jimmy**
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(Hm)510 Park Avenue Apt 6A
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212-832-1707 Home
212-272-2435 Suzette Direct
917-992-4999 (p)
908-222-7177 h - NJ
212-826-6369 (hf)
908-222-7773 2nd Home Fax
212 272 7808 Suzette's fax
917 992 4999 Pat Cayne
732 229 2574 (hf)

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+852 2371 8718 (w HK)
+852 2371 8505 (w HK)
+852 2370 1305 (wf HK)
+852 9499 8708 (p HK)

+44 207 730 2808 (hf)
917 353 6522 (p)
917 602 1251 driver
212 548 1388 (w)
212 548 1381 other
212 548 1350 (wf)
0777 484 2756 emergency -
Driver Iffy

**Daniel**
011 537 879 17 82

**Davison, Dayle**
*Citibank*
153 E 53 St.
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001 212 559 3366(w)
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686-8875 Home
559 6083 Geoff VonKuhn

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212 288 1282 (h)
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212 573 6885 NY Apartment
617 661 0351 Carolyn Cohen (h)
617 576 1353 (hf)
617 974 7013 (car)
617 661 1965 (h)*First*
000000000000000 (p)
212 573 6885 NEW NY # (12-7-01)

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858 454 0532 (hf)

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800 759 5665 #402 931 8525
2nd Flight phone
646 541 1751 Timeport
319-540-2265 Gulfstream
N909JE (air)
319-540-8265 Gulfstream
N909JE (ground)
319 540 2558 (air)727 N908JE
319 540 8558 (ground)727
N908JE
651 796 5194 (satellite/emerencies) N908JE
917 497 4880 spare 727 p
011 881 6314 54353 satellite -
GM
011 881 6314 54123 satellite -
pilots
917 545 6300 Guest cell

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917 400 1315 Yuni (p)
718 263 7182 Yuni (h)
203 762 2539 Eric (h)
203 984-6064 Eric (car)
516 791 3744 Jeff S (h)
516 578 7888 Jeff (p)
212 988 3509 Darren (h)
646 246 6434 Darren (p)
212 831 3253 Lauren (h)
917 496 6126 Lauren (p)
212 758 0256 Cimberly (h)
212 486 6609 Lesley (h)
973 650 8447 Lesley (p)
718 230 1767 Helen (h)
212 935 3961 Front Desk
212 935 3960 457 Mad. Switchboard
212 319 8113 Diclaphone
718 787 0327 Al Castricone-45
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917-543 2432 Portable
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917 699 2654 (p)
631 726 7518 /7583 (h)
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*Acct #1144-2081-6 JEC*
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New York, NY
800-238-5355
800-654-0920 Automatic Pick-up
800-247-4747 International
212-777-6500 Local Office
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011 33 1 40 85 39 Paris local
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570 722 3047 Pennsylvania House
212 202 7666 E-Fax
973 597 1165 New House
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973 439 7222 DKI Graphics

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617 496 3122 (f)
617 953 8156 cell-emergency only
617 441 8111 hf
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617 953 8155 other
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310 568 3700 LA Garrett Aviation
561 233 7242 PB Jet Aviation
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908 581 2641 (Pp)

**Tindall, Brent**
301 East 66th Street
Apartment 8C
New York, NY 10021
917 601 4143 (p)
212 535 7374 (h)

## KENYA (K)

**Muthaiga Club**
010 254 2 767754/5/6

## KINNERTON

**Airport Transfers**
0207-403-2228

**Charlie**
0208-994 5458
0956 210252

**Chelsea Police Station**
0207-741 6212

**Coles, Alan**
*Registered Osteopath*
The Brompton Health Clinic
221-223 Old Brompton Rd.
Earls Court SW5 0EA
07802 826 109
(Hm)Courtfield Medical Centre
73 Courtfield Gardens
Earls Court SW5 0NL

**Drivers**
welcomeminibus@, hotmail.com
020 8866 6644 Les Wallace
07806 324400 Les (p)
0208 866 6644 Les (h)
0797 314 2340 Ray Perkins (p)
0793 132 5729 Walter (p)
0795 632 4328 Walter (p)

**Entwistle Isi**
0797 0888989
0208- 870 7348

**Hair Assocs**
*Denise*
0207-245 0077
0207-235 3231

**Harrods Limited**
071-730 1234
#87
135 Brompton Road
Knightsbridge, London SW1X7XL
071-730 1234

**Harvey Nichols**
071-235 7207

**Holland & Holland**
071-499 4411
212 752 7755 (NY)

**Jackson Stops**
*Jolyn & Benson*
0207-581 5881

**John Hobbs Ltd.**
105/107A Pimlico Road
London, SW1W 8PH
0207-730-8369
0207-730 0437 (fax)

**La Famiglia**
351 0761

**Martin Tim/Debbie Stewart**
*Grosvenor Estate*
0207-408 0988
0207-312 6201(ld)

**Martine**
0207-235 0998(w)
0207-244 6836(h)

**Massage - UK (a)**
0208 715 6200 Liz
0976 283 625 Liz
0208 747 1268 Annabel
079 7753 5377 Barry cell
016 2848 8654 Barry
0207 924 1897 Joanne Brunt
0402 256 289 Joanne Brunt
31(0) 616 300982 Barry (Amsterdam)
310 821 2799 Barry(LA)
0776 765 5220 Maxine cell
631 329 3869 Maxine NY
07000378737 Lisa dstress
644 GM dstress membership #
077 4768 5190 Bernice Palazo (Stroll's)
0780 282 6109 Alan Coles (osteopath)
0207 251 6109 Felicity (Thai massage)
079 4093 7382 Felicity (p)
0870 225 5007 Unlisted London
Cherie Elling/good unlisted/0870 225 5007

**Maxwell, Ghislaine**
44 Kinnerton Street
London, England SW1X 8ES
0207-838 9128(f)
0207-838 9129(h)
Email: 2512 *21* #21#
(Hm)fedex package to:Simon Edwards
Alexander Mann Global Markets
Alexander Hse, 9-11 Fulwood Pl
London, England WC1V 6HG

0207-838 9130 2nd Line
0771 423 6573 Range Rover
07785 771552 (p)

**Minicabs**
0800-654321

**Nags Head**
*Kevin & Valerie*
0207-235 1135(w)
0207-931 0789(h)

**O'Neil Nessa**
0207-235 1209(h)
0831 458686(p)

**Oping**
01865 726297

**Outred, Anthony**
533 Kings Road
London, England SW10 0TZ
0207-730 4782
0207-376 3627
0207-736 8756 Home
0208-965-8733 Hedly's Humpers (Movers)

**Police 24 hours**
0207-321-8273

**Range Rover**
0771 4236573

**Ray John**
001 212 715 7227(w)

**Stichcraft**
071-629 7919

**Tobias, Maxine**
*Yoga -UK*
0207-351 7690
00 631 329 3869
Email: maxinelena@aol.com
07767 655220 (p)
516 329 3869

**Unlisted London**
*Contact: Debbie Nichols*
0870 225 5007 (w)

**Yara**
0207-349 0652

## MEDICAL

**Birnbaum, Dr**
449 East 68th Street
at York
Suite 8, Second floor
NY, NY 10021
212 628 1500
212 288 5760(f)
John Scobell

**Burman, Dr.**
*Vet for Max*
52 East 64th Street
New York, NY 10021
212-832-8417

**Chiropractor**
*Dr. Dean*
*Chiropractor*
2067 Broadway between
71st & 72nd
212 712-2195

**Chiropractor**
*Chiropractor*
*Calakos, Dr. Dean*
370 Columbus Ave.
(between 77th & 78th streets)
1F
NY, NY 10023
212 712 2195

**Cope, Bruce**
*GM Dentist*
2 Harcourt House
19A Cavendish Square
London, UK W1M 9AD
0207-580 0646(w)

**Dr. Bruno**
535 Park Avenue
New York, NY 10021
212 838 3155

**Dr. Dean Calakos**
370 Columbus Avenue
#1F
New York, NY 10024
212 712 2195

**Dr. Farkus**
30 East 60th Street
201 Floor
212 355 5145

**Dr. Ray, Dr. Kashel**
*Paula's Dr.'s*
561-478-1104

**Dr. Schimoni**
212 751 5066 (w)
917 922 7391 (p)

**Ear Conning**
310 West 72nd Street
NY, NY
001 212 580 3333

**Gaynor, Dr J R**
79 Cadogan Place
London
SW1X 9RP
0207- 351 3454 (h)
0836 236965
0207- 351 6801 (h)
0207-730 3700 (w)

**Hirshfield, Dr.**
614-864-6016 (f)
614-252-2034 (h)

**Ishmail**
177 Prince Street
(between Prince & Thompson)
212 353 2038
917 865 0394

**Kent, Susan DVM**
*Park East Animal Hospital*
52 East 64th Street
NY, NY 10021
212-832-8417

**Krumholtz, Dr. Michael**
111 East 80th Street
NY, NY 10021
212 734 5533

212 717 1688 fax

**Lee, Dr.**
614-868-5966
614-457-9585 (h)

**Lister Hospital**
0207-730 3417
0207-235 2672

**Magnani, Dr.**
501 Madison Ave. Suite 2101
(btwn 52nd and 53rd St)
New York, NY 10022
212 688 1090
203 629 5608(h)
212 755 3156 fax

**Medical**
4311440*01 Oxford ID number(gm)
133 78 4883 Prudential ID number(gm)dental

**MedLink Emergency**
001602 239 3627

**Meltzer, J. Dr.**
903 Park Avenue
New York, NY
212-988-4488
212 535 4796fax

**Moskowitz, Dr. Bruce**
1411 North Flagler Drive
Suite 9300
WPB, FL 33401
561 833 6116 (w)

561 848 7884 (h)
561 833 6351 (wf)
x21 Melanie
561 833 1628 direct to Moskowitz desk

**Oxford Health Plans**
800 201 4911
800 444 6222
4311440*01 Member number

**Prudential**
800 843 3661

**Steinburg Dr**
*NY Hospital 525 E 68th St*
001 212 746 4100

**Sternberg, Esther Dr.**
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Washington, DC 20008
001 301 402 2773(w)
001 202 237 6020(h)
Email: sternber@bellatlantic.net

**Tom, Maggie**
0207-486 9272

**Victor, Steve Dr.**
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212 249 3050 (w)
212 988 5026 (f)
(Hm)845 UN Plaza, apt 32A
New York, NY 10017
001 212 628 5210 (h)
001 516 354 3304
917 913 9029 (car)
516 329 5873 Beach
917 226 1554 (p)
516 625 6222

212 249 1482 (wf)
917 328 8655 emergency

**Wyntik, Wayne**
*Chiropractor*
212-249-7790

**PB**

**Babor**
561 832 9385

**Bard, Dr. Perry**
4275 Okeechobee Blvd (w)
Suite H
WPB, FL 33409
561 640 9999 (w) WPB
Email: docbones77@aol.com
(Hm)3636 S.Ocean Blvd
Highland Beach, FL 33487
561 266 5785 (h)
561 302 1844 (p)

**Breakers, The**
561-655-6611
Account # 17313

**Chiropractor**
*Dr Bard*
001 407 640 9999

**Cleaners**
*Francis Peadon*
561 833 4486
1 561 820 4642 (w) Bill - husband

Witness

**Creative Custom Swimwear**
Jupiter Town Center Plaza
711 W. Indiantown Rd.
Jupiter
FL 33458
561-747 6424

**Devito, Dawn**
267 Atlantic Ave.
Palm Beach, Florida 33480
212-750-9198
(Hm)144 Pleasant St.
Watertown
MA
02172,
561 832 4616 Palm Beach Home
617-926 7877 Boston;
401-423-9886 Rhode Island
561 248 3445 (p)

**Driver - PB**
305 491 1998 Ray

**Epstein, Jeffrey**
358 El Brillo Way
Palm Beach, FL 33480
Email: jeffreye@mindspring.com
561 309 6415 NY Merc
561 655 7626 JE Line 1
561 655 7629 JE Line 2
561 655 2779 JE Line 3
561 655 3704 JE Line 4
561 655 4870 GM
561 820 8790 (f)
561 655 0995 Main house kitchen
561 804 9849 Main house kitchen (w)
561 379 9390 Armored Merc S500 (front)
561 309 6415 Armored Merc S500 (back)
561 818 8867 Guest Merc S600 (front)
561 758 1672 Guest Merc S600 (back)
561 346 7141 GM Merc SL55

561 762 6380 New Suburban
561 371 1686 Staff Suburban
561 832 0232 Staff House Line 1
561 832 0319 Staff House Line 2
561 832 0414 Staff House Line 3
561 832 4533 Staff House Line 4
561 818 8361 Mike (p)
561 818 8398 Sally (p)
561 369 4354 Jerome Pierre-gardener
→ 561 641 0728 Jerome Pierre-gardener (h)
→ 561 350 1700 Christophe ← ☆
561 686 3707 Paula (h)
561 308 8684 Paula (p)
561 762 2741 Paula (car)
718 449 5440 Fay Goodman
310 306 1362 Ronnie Carey (h)
310 215 0303 Ronnie Carey (w)
4710157 # Call forwarding

**Gaie, Christophe**
6102 Wheatley Ct
Boynton Beach
FL 33436
561 350 1700 (p)
561 233 7242 (o)
561 233 7240 (f)

Witness

**Goldman, Francis**
122 Lake Rebecca Drive
Golden Lakes, FL 33411
561 656 4409

**Goldsmith, Gerald**
220 Wells Road
Palm Beach, FL 33480
561-659-0441 (h)
561-659-7433 (hf)
(Hm)Palm Beach National Bank
125 Worth Ave.
Palm Beach
FL 33480,
772 971 1000 (p)
561 653 5586 (w)
561 650 0866 (wf)
212 319 9404 (w)
212 659 1433 (w)

212308 0519 emerg.

**Maronet, Bill**
*ETC*
561-881-8118
Phones

**Massage - Florida (a)**
561 467 2588 Dawn W-R(b)
561 776 5679 Dawn W-R (h)
561 832 4616 Dawn James (Devito) (h)
561 554 4272 Cheri Lynch(b)
561 743 3784 Cheri Lynch(h)
561 627 5816 Dawn W-R (w)
561 373 1412 Cheri Lynch(p)
561 758 1011 Alison Chambers
561 799 9176 Jodie
561 222 0864 Jodie (p)
323 314 2740 Alexandra (p)
561 650 0185 Johanne (h)
561 589 8116 Alexandra (h)
561 714 0546 Johanna's cell
561 704 0676 Tammy (p)
561 775 9324 Amy Birse(mom p)
561 622 0062 Amy Birse h
561 333 7493 Melissa Hanes-dad
561 670 8562 Vicky (p)
561 745 9574 Vicky (W)
561 967 1496 Lisa Sturgil(h)Mass/Fac.(Tammy
561 789 3371 Lisa Sturgil (p)
01133 680 240 365 Alexandra (paris-p)
561 655 1849 Amber (mom)
561 790 4519 Virginia (parents)
954 467 0412 Katja (h) Gypsy's girl
561 586 4625 Geri Kay (h)Mass/Fac.(Tammy)
561 758 5846 Geri (p)
561 309 0079 Dawn WR(p)
561 385 5444 p Janine (red head)
561 624 5679 Melanie(h)
561 212 4702 Melanie (p)
561 351 0944 Melissa Hanes (p)
561 576 9814 Jennifer
561 301 8687 Amber (p)
561 655 5169 Amber (mom)
561 333 7121 Katie Brihingbam
561 471 3984 Caroline Adriano boyfriend hse

561 707 1789 Dominique & Kelly
561 714 9719 Mary Southwell
561 389 6874 Christina-Virginia's friend
561 379 3177 Amber (mom-p)
561 478 0496 Caroline Andriano home
561 533 7599 Diane Cahill (h)
561 312 1408 Diane Cahill (p)
561 798 6103 Andrea(Tony's friend)
561 358 9837 Heidi
561 301 3101 Nicole
561 832 6777 Nicole (h)
440 289 6551 Coleen p
561 514 1158 Cristale
561 358 8259 Cristale
352 281 7032 Michelle Bell
954 525 2084 Hawthornes
954 232 0635 Hawthornes
561 635 6359 Andrea 2nd number
561 373 9042 Amy Birse p
561 641 7658 Melissa(Carolyn's friend)
561 689 2458 Amanda Lazlo (h)
561 436 9315 Amanda (mom)
561 502 8809 Melissa'a cell(Carolyn's frnd)
561 309 7877 Beth (p)
561 554 3858 Beth
561 889 5900 carolyn (p)
561 832 6968 Carolyn Casey (h)
813 299 4573 Charlotte (18 Worth Ave) p
561 832 5006 Charlotte (w)
561 818 0296 Chelsea (b)
561 748 9105 Chelsea Facials (brunette-h)
561 373 1412 Cheri Lynch (p)
561 514 2862 Coleen
561 358 8259 Cristale
561 686 2598 Dara Preece (h)
561 742 0171 Dara (w)
561 704 8946 Dara (p)
561 625 0378 Debra (big bond) (h)
561 339 1988 Debra (p)
561 218 6687 Dina Lombardi (facialist)
561 212 8152 Dina (h)
917 922 4359 Gwendolyn (p)
561 822 4932 Gwendolyn Beck (w)
954 525 2084 Hawthornes

954 452 8582 Heidi Kublick
561 493 8676 Jessie (h)
561 626 5664 Jessie (mom)
561 689 0848 Jill Spina
561 222 0864 Jodie (p)
305 673 6060 Karen Mesa
954 467 0412 Katja (h) gypsy's girl
954 442 3309 Kiery (Lisa P's friend)
561 707 3565 Kristen (carolyn's friend)
561 329 0213 Kyle
561 791 0535 Laura Kline
561 615 8223 Lina (cosmo & co)
561 352 0709 Lina (p)
561 346 2802 Lina (p)
561 627 9966 Maura (h)
561 762 7126 Maura Koons (p)
561 502 8809 Melissa (carolyn's friend) p
561 333 7493 Melissa (h)
561 383 7738 Melissa Hanes (h)
561 351 7248 Nela Estonia (p)
561 301 3101 Nicole
561 848 3073 Sheridon (h)
917 601 2111 Sheridon (p)
561 227 2435 Sheridon (w)
561 881 6998 Symar (b)
561 588 5444 Tammy (facialist)
561 798 6216 Stephanie
561 685 0544 Jennifer-gymnast
561 253 4832 Ashley(Tony)
561 588 5444 Tammy (Facialist)

**Maxwell, Ghislaine**
358 El Brillo Way
Palm Beach, Florida 33480
001 561 655 4870
001 561 832 3816 com
001 407 346 7141 Mercedes
001 407 655 3704

~~**Michael & Sally**~~ A.R. Lovelz
*PB house managers*
1 561 818 8361 (Pp)
1 561 818 8398 (Ep)
Email: pbmanager@earthlink.net

**Mike Pezulo**
*El Brillo neighbor*
561 655 6210(w)
800 854 9192(pgr)

**Mogens, Larry**
561 655 5510

**Police PB**
Jennifer Bruno (cop hire)/Pat
561 227 6358
561 838 5476
(Hm)Capt Gudger
561 227 6365
561 838 5470 Joe Recarey
561 308 1546 Tom Melinchok
561 838 5470 Srgt Trilych

**Pompano Helicopter**
1 800 957 4374
954 931 7186(Steve)

**Stopek, Alan**
*Xyle'phloem*
14372 Horseshoe Trace
Wellington, FL 33414
561 793 7303(w)
561 793 9674 (wf)

**Vet**
*Jack Liggett*
561 659 2208

**RANCH (RH)**

**Bodie John**
*Plane rental StFe*
001 505 884 4530

212-695-7171
212-489-1818 home

**Ellis Freedman**
001 212 758 9593 (h)
001 212 351 3092/ 91 (w)

**Grumbridge, Malcolm**
*Solicitor*
***The Hogarth Group***
1A Airedale Avenue
London, England W4 2NW
0208-995 1515 (w)
Email: mcg@thehogarth.co.uk
(Hm)31 Cleveland Avenue
London, W4 15N
0208-995 0975 (h)
0208-995 1373 (f)
0208-994 0929 (w) switch board
0385 365 616 Car
0385 248887 Portable
44 20 8995 1515 wf

**Lemaine, Pierre**
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00 33 1 4325 4080 (f)
00 33 1 4402 3414 / 000926
00 33 1 4345 5191 (h)

**Marden Scott and Sarah Nurse**
001 212 595 1619(h)
011 212 702 8680(w)

**Marden Scott and Sarah Nurse**
001 212 595 1619(h)
011 212 702 8680(w)

**Marden, Scott & Sarah**
001 212 702 8602(w)

212 595 1619(h)
212-595-1617 work
212-595-1619
212-272-6050

**Miranda, Bob**
001 914 739 6879 (h)
001 212 345 6408 (w)

**Moss Brian /Carolin Coleman**
01865 881165
01865 881153

**Nesson, Mauri**
001 212 724 9070
001 303 925 8817 Aspen

**Oliver, Keith**
***Peters & Peters***
2 Harewood Place (w)
Hanover Square
London, W1R 9HB
0207-629-7991(w)
0207-499-6792(wf)
Email: keoliver@petersandpeters.
(Hm)Flat 1 (h)
Statham Court
20 Tollington Way
Holloway, London N7 6FP
0207-409-9703 Direct
07785 232 122 (p)

**Onakewe, Rodolph**
47 Rue de Chaellot
Paris,
33 1 4723 0063

**Ord, Robert**
01491 652642(h)
0385 307809(p)

0836 208089

**Paul Cox**
7532206

**Peters & Peters**
***Keith Oliver/Helen Mcdowell***
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0207-491 3035
0207—499 6792(f)
0385 232 122

**Pisar, Samuel**
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011 331 4622 8203(wf
011 331 4501 8718 (h)
954 457 9267 holiday #
212 744 0727 (h) NY
011 331 4401 4401 Caroline Gravisse
011 331 4415 9415 Caroline Gravisse (f)
212 744 0836 (f)
011 331 4501 2384 (hf)
011 3314486 4676 Mme. Gravisse
212 829 8800 x15 Leah Pisar (w)
917 664 8243 Leah Pisar (p)
212 829 8800 x15 Leah Pisar work

**Posen, Felix**
24 Kensington Gate
London, W8 5NA
0207-584-9330 home
0207-584-0915 off.
Email: nesop@dircon.co.uk
0207-584-0904 (f)
(0)1342-833133 Crowhurst
(0)1342-833568 (f)

**Shaw Derek**
0205 820944

**Shelly Aboff**
001 203 532 0453 (w)
001 203 622 5905 (h)

**Tony Busby**
0865 60684 X3593

**Travis, Paul**
0342 844686

**Tutle, Jim**
(732) 248 1847
0867 358822 X3577
0867 358822 X3577

**White, Justin**
0765 724 372
0765 724 372

## RUGS

**Pierre, Jerome**
*Gardener at PB house*
561 369 4354
561 547 3575
561 541 7955 (p)

## SECURITY (SC)

**Scotland Yard**
0207-230 1212

**South Ken**
0207-741 6212

**The Home Office**
0207-273 2124

## SWITZERLAND (SW)

**Bristol Hotel**
10 rue du Mart-Blanc
Geneva, Switzerland 1201
4122-732-3800
4122-738-9039
331-42-669-145 Paris

**The Corveglia Club**
010 41 8234864

**The Steffani**
010 41 82 22101

## TRAVEL (T)

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(22) 984510 (Geneva)

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1023994284 frequent flier (GM)
1023994343 frequent flier number (JE)

**Air Hansen**
*(Helicoptor)*
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0252-860-287

**American Airlines**
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*Special Services:*
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75261 9047
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340 774 6464 St T Brenda Boone (special sev
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**American Express**
*American Express*
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1-800-297-3276 Membership Rewards
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91088094 Pin 9919 club number (GM)
91859156 club member (JE)
0208-759 5511 Claire McArdle
0208-564 1680 Jilly Rutherford
718 425 5585 Roz Ollivier/Special Services
718 425 5654 Alan Jacobson/special services
212 452 5353 Roz home (emergencies)

718 553 5585 Penelope Foy (special services
718 425 5585 Bernette Berry - Spec. Rep.

**Citicar**
3515 37th Avenue
Long Island City, NY 10021
718-707-9090
800-456-3548
718-361-9800 Ellen/Tackle
800-456-3548 Toll-Free Number
718-361-8834 when ph system is down

**Concord Tickets**
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Nottingham NG12 5AA, UK
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0115 9376930 (f)
612 931-0490 (Fisher) Susie Simon (h)
212 268-9088 (Wilpon) Michael Holtz

**Continental Airlines**
001 800 525 0280
#SM147662 frequent flier number (GM)

**Delta Airlines**
001 800 323 2323
2102103435 frequent flier number (GM)
1-800-325-1999 Flight information number
2001009253 frequent flier number (JE))

**Delta Dash**
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**DHL Courier**
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**Flight Options**
26180 Curtiss-Wright Parkway
Cuyahoga County Airport
Cleveland, OH 44143
877 357 1263 (w)
216 797 3325(wl)

**Flyaway**
081-759 1567/2020

**Frequent Flyer Clubs**
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001 713 952 1630
001 800 221 1212
#2102103435 frequent flier number

**Garnero, Jr., Mario B.**
011 55 11 9970 1020
Email:
mbgarnero@brasilinvest.co
646 251 2211 (p) Europe
011 331 4720 1884 Paris

**Helicopters**
***Jean-Jacques Moinet***
***Nice Helicopteres***
Aeroport Nice Cote d'Azur
Terminal1
06281
Nice, Cedex 3
04 93 21 34 32
04 93 21 35 64 (f)
Email:
nicehelicopteres@wanadoo.
06 14 356 353 (p)

**Hickery, Eileen**
*Special Services, NY*
101-69585 BA

**Immunisation**
071-439 9584

**Kent, Geoffrey**
*Abercrombie & Kent*
9301 North A1A
Suite 1
Vero Beach, FL 32963
561 388 0145(w)
800 588 0145(w)
561 388 2756 fax
01144 207 559 8797 London Number

**London Airways**
0207-403 2228

**Lonsdale**
*Karen*
0207-636 1313

**Net Jets**
Richard Santulli asst. Carol 732 326 3728
914 536 5254 Peggy Culver Feign
212 879 7577 Peggy (h)
732 326 3833 Peggy (w) asst Erin
00 35 121 446 8484 Portugal

**Nite & Day**
570 Moonacha Road
WoodBridge, NJ 07075
201-933-7556

**Northwest Airlines**
001 800 225 2525

**Omar**
*Travel Agent*
*Alla Travel*
827 Ridgewood Ave.
N. Brunswick, NJ 08902
001 908 435 0555
001 908 435 0660(f)

**Phone**
1800 414 9898(ny)
212 338 8300 (9366)
(Hm)UK 0181-288 3310 (1211)
ring h answ picks 2512*21*2512 h.no. tel no.&#
*71 enter 1 no. se deact * 710 send wait tone end
01 610 317 7726 Voicestream
00 800 99 0011 ATT access for France
72# enter number activate call forward on site
73# enter number deactivate forward from site

**Pisa Brothers**
Rockefeller Center
630 Fifth Avenue
New York, New York 10111
212 265-8420
212 265-8753 (f)

**Plane Charter**
*Chauffair*
01252 377 880
01252 377 872 (f)

**Platinum Travel**
1800 525 3355
371385847234008 Pla(GM)
3713 8182 5931 004 Pla (JE)

371846368841034 AMX (GM)
3718 463688 41000 AMX (JE)
5263 2710 0944 295 Mast (GM)

**Raytheon Travel Air**
*George Kocher*
One Pomperaug Office Park
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Southbury
CT, 06488
203 267 5200(w)
917 863 8755(p)
Email:
george_kocha@raytheon.com
203 267 5202 (f)
1 888 835 9782 Book flight
1 888 u fly rta
316 676 1793 Karen Jenkins
316 676 3820 Karen Jenkins Fax
877 357 1263 Flight Options

**Red Carpet Limousine Company**
310-552 0099

**Saphire Travel**
01170 522 2226

**Shopper's Travel**
303 Fifth Avenue, Suite 1007
New York, NY 10016
212-779-8800

**Sprint**
212-750-9895-3742
800 366 2663 conference call scheduling

**SR Reservations**
081-439 4144

**Steppes East**
Marc Bullough
Mick Lany
285 810267

**Travel Consolidator Europe**
*Kevins Travel Contac*
0207 373 6465
0207 637 8485 cheap concorde tickets
011 33 156213000 Succes Voyage—Pascaline

**Travel Consolidators**
*See other numbers*
800 243 2784 CHEAP
44 12 93 78 9000 Laker Airlines
212 779 8800 Ragoo
1 800 377 1000 Very Cheap Tickets (coach)
1 800 755 4333 Very Cheap Tickets
800 451 7200 Cheap Seats
212 570 1179 Cheap Seats
44-1332-331-132 Peter Koukoularides (Lonsdale)
340 774 1040 Connie
011 3902 8645 5203 Paris Concorde Mr. Capellini
01 705 22 22 26 Saphire/charters Gatewick-St.T
800 538 2583 Jet Blue
310 973 7938 Traveling Traveler/Sabatian
888 973 7938 Sabatian
800 799 8888 Ticket Planet ext. 230 Sal
212 753 1100 Homeric Tours
800 468 7477 Go Trips-Stacy PB
877 409 5838 24 hr. hotline code #E5516
732 690 4625 Raghu cell
0870 444 7224 cheapflights.co.uk
212 243 3500/Lucy
FranceTravel-airfrancediscount
0207 637 8485 cheap concorde tickets
212 760 3737 FlyTime Travel - Tashi

800 223 5866 Navigant
877 877 0987 Amex. Centurian Travel
1 800 443 7672 Amex Plat. Travel
800 443-7672 Platinum/Heather ext. 63793
800 715-4440(22339 Global Travel
310 276 2741 1st & Busi./Charlie
212 983 0779 UN Travels and Tours
323 933-8763 Domestic only mi. broker/John
800 239 8269 Virgin specialist

**TWA**

001 800 221 2000
#188925144 frequent flier numbers (GM)
34663436 frequent flier number (JE)

**United Airlines**

001 800 241 6522
#00385250614 frequent flier # G.M.
00316924999 frequent flyer # J.E.

**US Air**

*Frequent Traveler Center*
P.O. Box 5
Winston Salem, NC 27102-0005
001 800 872 4738
001 800 428 4322 (
001 800 428 4322
#138515311 frequent flier number (GM)

**USA International**

218 West 47th Street (B'Way)
New York, NY

**Virgin Atlantic Airways**

029-356-200
001 800 862 8621
#00 900 043 506 frequent flier number (GM)
00 779 044 628 frequent flier number (JE)

**Epstein, Jeffrey**
*Fed ex Sat delivery only*
c/o Dan and Nancy Sowle
Highway 41, Landon Store
Stanley, NM 87056
505 832 4339

**Epstein, Jeffrey**
*Zorro Ranch*
49 Zorro Ranch Road
Stanley, NM 87056
Email: zorroranch@aol.com
505 832 2675 Line 1 (office)
505 832 2696 Line 2 (office)
505 832 2676 (office f)
505 832 2697 Hotline Security
505 832 2698 Office modem
505 832 2240 BunkHouse LR
505 832 2505 Bunk 1
505 832 2262 Bunk 2
505 832 2245 Bunk 3
505 832 2504 Bunk 4
505 832 2247 Bunk 5
505 832 1708 Shop Wood Shop & Greenhouse
505 832 2352 Log cabin
505 832 1348 Guest lodge cabin
505 832 1364 Guest lodge (f) & modem
505 832 0690 JE - 1
505 832 0691 JE - 2
505 832 0595 JE - 3
505 832 1394 JE - 4
505 832 5411 JE (f)
505 832 1392 JE modem
505 832 1746 GM line
505 832 1389 GM (f)
505 832 9781 GM modem
505 832 1748 Guest line
505 832 1390 Staff - 1
505 832 1391 Staff - 2
505 832 6784 Brice & Karen (h)
505 832 1393 Kate & Mike (h)
505 832 0897 Deidre & Floyd (h)
505 832 2699 Larry (h)
505 832 1427 HVAC - MH
505 991 0026 Mike (Nextel)
505 991 0027 Deidre (Nextel)
505 991 0028 Floyd (Nextel)
505 991 0029 Manolito (Nextel)
505 991 0025 Kate (Nextel)
505 780 0004 Extra 1 (p)
505 780 0002 Extra 2 (p)
505 660 9585 Mercedes - front seat
505 660 3976 Mercedes - back seat
505 660 6240 Mercedes G500 (jeep)
505 690 5480 JE Suburban
505 690 1821 99 Suburban
505 699 8055 Tahoe
505 670 9754 Hummer
505 765 1200 Bradbury Stamm (w)
505 842 5419 Bradbury Stamm (f)
505 466 2668 Tom Pascuzzi (doctor) (p)
505 832 2238 Stables
505 699 7301 Karen (Cell)
505 832 2676 Office Fax

**Healy, Shannon**
*Zorro Ranch*
107 Camino Cabo
Santa Fe, NM 87508
505 466 2668(h)
505 660 1683(p)
570 454 8081 Mom (Cheryl)
516 331 6339 Dad

**Kelly, John**
*Attorney General*
3510 Wolters Place, N.E.
Albuquerque, New Mexico 87106
505 848 1867 (w)
505-768-1529
(Hm)500 Fourth Street NW
Suite 1000
Albuquerque, NM 87103-2168
505-268-4508 (h)
505 235 5084 (p)
505 848 1889 (wf)

**Kerney, Gary**
*Landmark National*
2817 Crain Highway
Upper Marlboro, Maryland 20774
301-574-3330(w)
240 463 3237(p)
Email:
gkerney@landmarknational.
(Hm)292 Cape St. John
Annapolis, Maryland 21401
805 581 4173 (gson)
410 533 2485 Gary home
301-574-3301 (wf)
home 410-349-1778
240 463 3237 cellular
240 463 3236 Emergency

**King, Bruce**
*Governor - New Mex*

Suite 400
1120 Paseo De Peralta
Santa Fe, NM 87503
505-827-3020
505-827-3026
505-827-7300 Home
505-832-4239

**King, Rhonda**
*Rhonda King Realty*
Hwy 472
2.5 mi west of Stanley
P.O. Box 606
Stanley, New Mexico 87056
505-832-4603 Work
505-982-4289 Fax
505-832-4229 Home
505-250-0730 Portable

**Massage - New Mexico**
505-269-1755 Diana (p)
505-271-9532 Diana
505-989-3902 Laura Christianson
505-982-1176 Daniella Urbassek (German)
505 982 2283 Sabrina
505 660 6192 Sabrina
505 984 8356 Rachel
505 424 7416 Rachel
505 669 1269 Rachel
505 989 9846 Linda Spankman-Yoga
505 471 1244 Melinda Walker - Reflexologist
505 984 8142 Sabina (German)
505 983 6742 Maureen (GM really likes)
505 989 4264 Stina - GM still to try
505 228 4505 Heidi (p)
505 438 3467 Nicki(Bill Siegel recommended)

**Richardson, Bill**
505 476-2200 o
505 944 7410 f
505 699 8222 (p)
505 476 2245 office direct
505 469 6881 Sec agent w/Gov (Tony)

**Santa Fe Institute**
1399 Hyde Park Road
Santa Fe, NM 87501
505-984-8800
505-982-0565

**Singleton, Dr. & Mrs.**
San Cristobal Ranch
Lamy, NM 87540
505-988-9720 (H)

**RM**

**Aboff Shelley**
001 407 333 2338
001561 333 9517

**Cowley, Dick**
0207-822 3691 (h)

**Domb, Sam**
230 Central Park South #18F
New York, NY

**Hatsuhana (Japanese)**
17 East 48th Street
0101 212 355 3345

**Helmsley Palace**
0101 212 888 7000

**Il Cantinori**
32 East 10 (at Broadway)

**Il Tre Merli**

Houston Street
West Broadway
691 7098

**Isabelle's**
359 Columbus Avenue
0101 212 724 2100

**Jour et Nuit**
212-925-5971

**Karen Pets**
1195 Lexington Ave.
b/w 81st & 82nd Sts.
212 472-9440

**Klinger, Georgette**
480 Madison Ave.
New York, NY 10021
212-838-3200
407-659-1522 Florida
Series #201482 Norma Jean

**Le Club**
88th (2-3)

**Le Comptoir**
227 East 67th Street
New York, NY 10021
212-794-4950

**Lowell Hotel**
*Fuad Chartounian-contact*
28 East 63rd St.
New York, NY
212-838-1400
212 319 4230

**Madison Gourmet**
212 288 8276(66)
212 737 3331 (84)

**Madison Towers**
22 E. 38th Street
(Corner of Madison & 38th)
3rd floor
New York, NY
001 212 685 7155

**Madre, Le**
168 West 18th
New York, NY
001 212 727 8022

**Mark Hotel**
New York, NY
212 744 4300

**Massage - California**
310 572 9693 Tracey
310-840-6989 Anastasia
310 396 0951 Danielle Schweitzer
310-450-1751 Rachel
714-841-1171 Lydia
310-392-2559 Scott Connelly
310-281-1270 Jackie Iverson
323-871-8829 Lisa Versaci
310 457 9894 Gypsy (h)
310 429 0254 Lori Bregman
310 463 6358 Jen (one of gypsy)
310-854-6366 Sports connection
310 463 5759 Sophie Biddle (p)
310 394 7048 Sophie Biddle
818-216-6974 Tiffany Gramza
323-270-7470 Tiffany Gramza (p)
310 394 1086 Scott Hobbs
323-254 8566 Marie Sabe
(Courtney Love's)
818-618 6907 Marie (p)
310 458 0883 Amber
323 314 4043 Crissy (Lisa
Sullivan;s friend
310 457 9388 Gypsy (w)
212 615 6948 NY # Gypsy (can
leave vm)
323 572 1632 Chauntae Davis
323 666 9942 Marianna (p)
702 743 0620 p Gypsy(p)
310 880 3495 Tanya (Petrella's
friend)
310 702 0169 Chauntae (p)
310 709 8877(p) Alex
Zosman(Gara's friend)
310 709 8877 Elizabeth Zosman
310 435 3930 Christy Tharpe -
Los Angeles

**Mayfair Regent**
65th bet Park/Mad
001 212 288 0800

**McMullan, Patrick**
*Photographer*
12 Fifth Avenue, #1-R
New York, N.Y. 10011
212-674-2153

**Mercer Kitchen**
99 Prince
001 212 966 5454
001 212 966 0010(f)

**Morgan Hotel**
001 212 686 0300

**Mr Chow**
324 E. 57th
New York
10022
212 751 9030
0207 589 7347
(Hm)151 Knightsbridge

EXHBIT 3

Lynn & JoJo

① I sent Lucian & Rushia's mail to their correct address and called Post office to make sure all future mail will be sent to them.

② I Scheduled the cable company to come on Thursday. This is their soonest appointment. Ghislaine asked me to make an appointment because the TV in the Blue Room does not get a clear reception.

③ SHUTTER COMPANY WILL COME EARLY THURSDAY TO MEASURE SHUTTER NEXT TO GHISLAINE'S DESK. THE SHUTTER WILL NOT ROLL DOWN.

* BOTH CABLE COMPANY & SHUTTER COMPANY WILL CALL ME ON MY CELL PHONE TO MAKE SURE JEFFREY & GHISLAINE ARE NOT HERE.

Jeffrey E. Epstein

Nicole

# 301.3101

## IMPORTANT MESSAGE

FOR Mr Epstein

DATE 02/02/03 TIME 8:54 A.M. ~~P.M.~~

M iss BANU

OF

PHONE 310 498 3045
AREA CODE NUMBER EXTENSION

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Called for Please call back, it's very important

SIGNED Evelyne

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE 01/02/03 TIME 16:30 A.M. P.M.

M CAROLINE CASEY.

OF

PHONE 889 3900
AREA CODE NUMBER EXTENSION

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED GM

1184

---

## IMPORTANT MESSAGE

FOR GM

DATE TIME A.M. P.M.

M

OF

PHONE
AREA CODE NUMBER EXTENSION

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Tammy PHONED TO CONFIRM 10AM

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE 01/02/03 TIME 21:06 A.M. P.M.

M AMANDA

OF

PHONE 963 8470
AREA CODE NUMBER EXTENSION

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE WANTS TO KNOW IF SHE SHOULD BRING HER FRIEND HOLLY WITH TONIGHT

SAO01456

SIGNED Michael

1184

## IMPORTANT MESSAGE

FOR Mr Epstein
DATE 4/23/04 TIME 6:10 A.M. [✓ P.M.]
M Mark Epstein
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE At your moms

SIGNED

1184

---

BK 3 #2

## IMPORTANT MESSAGE

FOR Mr Maxwell
DATE 4/23/04 TIME 5:25 A.M. [✓ P.M.]
M Ellen
OF
PHONE/ MOBILE Office

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr Epstein
DATE TIME A.M. P.M.
M Mark Epstein
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Ms Maxwell
DATE 4/23/04 TIME 5:37 A.M. P.M.
M [illegible]
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SAO2827

SIGNED

1184

## IMPORTANT MESSAGE

FOR 6m
DATE 4/28/04 TIME 2:00 A.M. [✓ P.M.]
M Martha
OF Colonial Bank
PHONE/MOBILE 653-5593

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR MS. MAXWELL
DATE 04/25/04 TIME 6:55 A.M. [✓ P.M.]
MS. NECOLE HESSE
OF -
PHONE/~~MOBILE~~ 832 6777

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE RETURNIN YOUR CALL

SIGNED Rushi

1184

---

## IMPORTANT MESSAGE

FOR
DATE TIME A.M. P.M.
M Amy Birse
OF
PHONE/MOBILE 561-373-9042

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☒ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE TIME A.M. P.M.
M Ghislaine
OF
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE would be helpful to have ~~x~~ [illegible] come to Palm Beach today to stay here and help train new staff with Ghislaine

SAO2830

SIGNED

## IMPORTANT MESSAGE

FOR 05/21/04

DATE FOR MR EPSTEIN TIME 5.37 ~~A.M.~~ P.M.

M JERRY GOLDSMITH

OF

PHONE/MOBILE 561 844 9715

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE 'PLEASE CALL ME"

SIGNED

a 1184

---

## IMPORTANT MESSAGE

FOR MR ETSIEIN

DATE TIME 8.30 A.M. P.M.

M SARAH

OF

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
WILL CALL
BACK

SIGNED

a 1184

---

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE 05/21/04 TIME 4.38 A.M. P.M.

M JOHANNA FJOBERG

OF (561)

PHONE/MOBILE 714 0546

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE "CALLED"
"CALL BACK"

SIGNED

a 1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR 05/21/04 )

DATE TO MR EPSTEIN TIME 12.45 ~~A.M.~~ P.M.

M

OF CHRIS CONDON (MS)

PHONE/MOBILE B01 2 561 301 2211

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
CALLED

SIGNED

a 1184

## IMPORTANT MESSAGE

FOR Jeffrey

DATE ______ TIME ______ A.M. P.M.

M Ghislaine

OF called

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR 06/06/04

~~DATE~~ FOR MR EPSTEIN TIME 7.44 A.M. ~~P.M.~~

M

OF MS. MAXWELL

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE " CALLED BUT NOT VERY IMPORTENT "

SIGNED R

1184

---

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE 06/11/04 TIME 1.48 ~~A.M.~~ P.M.

M FRANCIS WARD

OF

PHONE/MOBILE (561) 346 1715

| | | | |
|---|---|---|---|
| TELEPHONED | ☑ | PLEASE CALL | ☑ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE 'CALL BACK'

SIGNED R

1184

SC1184 10/01

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## IMPORTANT MESSAGE

FOR MR. EPSTEIN

DATE 6/6/04 TIME 8.57 A.M. ~~P.M.~~

M TONY

OF

PHONE/MOBILE 790 5475

| | | | |
|---|---|---|---|
| TELEPHONED | ☑ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
" WILL BE COMING AT 11 AM " TODAY

SAO2836

SIGNED

1184

## IMPORTANT MESSAGE

FOR Tatum
DATE ______ TIME ______ A.M. P.M.
M ______
OF ______
PHONE/MOBILE 577-5896

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE ______

SIGNED ______ 1184

---

## IMPORTANT MESSAGE

FOR SARAH
DATE 6.12.2004 TIME 3.55 ~~A.M.~~ P.M.
M Jo Jo
OF ______
PHONE/MOBILE 917 975 4500.

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE CALLED. SAYING SOME ONE Called FROM PALM BEACH

SIGNED ______ 1184

---

## IMPORTANT MESSAGE

FOR Tatum
DATE ______ TIME ______ A.M. P.M.
M ______
OF ______
PHONE/MOBILE ______

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She'll be here at 5.30

SIGNED ______ 1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR MR. Epstein
DATE ______ TIME ______ A.M. P.M.
M ______
OF MS. Maxwell
PHONE/MOBILE ______

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE ______

SAO2837

SIGNED ______ 1184

## IMPORTANT MESSAGE

FOR MR EPSTEIN
DATE 7.9.2004 TIME 7.30 ~~A.M.~~ P.M.
M SCHANZ
OF
PHONE/MOBILE ~~[illegible]~~ 516 791 0044

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE CALLED [illegible]

SIGNED
1184

---

## IMPORTANT MESSAGE

FOR [illegible]
DATE [illegible] TIME 6.95 A.M. P.M.
M IVAN ROSH
OF [illegible]
PHONE/MOBILE 914-393-1225

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE [illegible]

SIGNED
1184

---

## IMPORTANT MESSAGE

FOR SARAH
DATE 7/9/04 TIME 10.36 A.M. ~~P.M.~~
M
OF LESLIE (N.Y OFFICE)
PHONE/MOBILE 203 972 4488

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE SHE IS WORKING FROM HOME TODAY PL CALL THE ABOVE # ASAP

SIGNED R
1184

---

## IMPORTANT MESSAGE

FOR MR. EPSTEIN
DATE [illegible] TIME 635 ~~A.M.~~ P.M.
M s MAXWELL
OF DARREN
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE PLEASE CALL WHEN POSSIBLE

SAO2840

SIGNED
1184

SC1184 10/01

## IMPORTANT MESSAGE

FOR SARAH IN

DATE 07/10/04 TIME 6.33 ~~A.M.~~ P.M.

M SCHAND

OF RAGHU

PHONE/MOBILE ~~c~~ 516 791 0044

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE PL CALL

J CALLED

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE TIME 9.15 A.M. P.M.

M CECILIA (OFFICE)

OF

PHONE/MOBILE 917 759 1176 25

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR SARAH

DATE 7/9/04 TIME 10.31 A.M. ~~P.M.~~

M MILES.

OF LESLIE (NY OFFICE)

PHONE/MOBILE 203 472 4488

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE SHE IS WORKING FROM HOME ALL DAY

PL ~~BACK~~ THE ABOVE

ASAP

SIGNED R

1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE 7/9/04 TIME 7.50 ~~A.M.~~ P.M.

Ms MAXWELL &

OF TATUM

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE "BRITTNY IS AVAILABLE ON TUESDAY

NO ONE FOR TOMORROW

SAO2841

SIGNED R

1184

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE MR E[illegible] TIME ______ A.M. P.M.

M ______

OF MS MAXWELL

PHONE/ MOBILE ______

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE ______

SIGNED ______ 1184

---

## IMPORTANT MESSAGE

FOR JE

DATE ______ TIME 7:__ A.M. P.M.

M Court

OF BriTany

PHONE/ MOBILE 662-3098

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She said if she could [illegible] before 4:30 and later after 4 at 6:30 or 7 b coz she has b-day dinner w/ her grandpa.

SIGNED ______ 1184

---

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE ______ TIME ______ A.M. P.M.

M [illegible]

OF ______

PHONE/ MOBILE [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She will see you at 7:30

SIGNED ______ 1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR MR. Epstein

DATE ______ TIME 2:18 A.M. P.M.

M Manuela

OF ______

PHONE/ MOBILE ______

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She said that sophie got her messages y said that she's sorry for not seeing you in California

SIGNED ______ 1184

## IMPORTANT MESSAGE

FOR JEFFREY

DATE AUG 2 TIME 12:45 A.M. [✓ P.M.]

M TATUM + RHIANNA

OF

PHONE/ MOBILE 261-6237

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE THEY ARE AVAILABLE ALL WEEKEND AND [illegible] MAYBE DANA TOO.

SIGNED NICOLE HESSE

1184

---

## IMPORTANT MESSAGE

FOR MR EPSTEIN

DATE 7/25/04 TIME 5:02 ~~A.M.~~ P.M.

M

OF SNYDER

PHONE/ MOBILE 914 763 9167

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE "RETUNING YOUR CALL"

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR SARA.

DATE Aug. 2 TIME 3:00 A.M. P.M.

M Nicole Hesse

OF

PHONE/ MOBILE Nicole [illegible] 330-6777 [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | ✓ |

MESSAGE Please call IN reference to [illegible] the framed pieces [illegible] I moved them per Ms Maxwell's request.

SIGNED Nicole Hesse

1184

---

## IMPORTANT MESSAGE

FOR MR. EPSTEIN

DATE 7/25/04 TIME 1:48 ~~A.M.~~ P.M.

M

OF MS MAXWELL

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE "TELL HIM TO CALL ME"

SAO01464

SIGNED

1184

SC1184 10/01

## IMPORTANT MESSAGE

FOR Jo Jo
DATE 8/6/04 TIME 12:06 A.M. [✓ P.M.]
M
OF Dave
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Arriving at Customs at 8:15

Need: 2 vehicles (5) people

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE TIME 930 [✓ A.M.] P.M.
M Nadia
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE will phone again in 1/2 hr.

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE TIME A.M. P.M.
M
OF tVA
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | ✓ |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR JE
DATE TIME 11:35 A.M. P.M.
M Abe Gossman
OF
PHONE/ MOBILE 818 8162

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | ☒ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SAO2845

SIGNED

1184

## IMPORTANT MESSAGE

FOR JE
DATE 20 AUG TIME 91.06 [✓ A.M.] P.M.
M [illegible]
OF [illegible]
PHONE/ MOBILE [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE [illegible] CALLED,
SHE HAS ALL THE INFO
YOU NEED

CALL AT 631.537.9385

SIGNED Manu

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE 20 AUG TIME 3.66 A.M. P.M.
M [illegible]
OF [illegible]
PHONE/ MOBILE [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Teclo

Call HER BACK

917. 503. 2296

SIGNED Manu

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE 20 AUG TIME 3.40 A.M. P.M.
M
OF Nathalie [illegible]
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
Returns your call

917. 204. 4676

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR ~~[illegible]~~ JE
DATE 20 AUG TIME 3.40 A.M. P.M.
M Ghislaine
OF
PHONE/ MOBILE ✓

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE SHE LET LARRY GO
THE ONLY FLIGHT TO PB leaves
at. 3.15
Not heard from Tom Ford
IF you call it means she will pick
up TF alone in the chopter.
If you want to change please
call GM back

SIGNED

1184

## IMPORTANT MESSAGE

FOR ~~MR. EPSTEIN~~

DATE ~~MR EP~~ TIME 2:41 A.M. P.M.

M

OF MS. MAXWELL

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 9:2 A.M. P.M.

M Sarah

OF Brittany

PHONE/ MOBILE 561 662-3698

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She said if she can't come early her left before [illegible] or later after 4:00 (6:00 or 7:00) b'coz she has b-day dinner w/ her grandpa

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR MR. EPSTEIN

DATE TIME A.M. P.M.

M Sophie Biddle

OF

PHONE/ MOBILE 310-463-5759

@ Miami Airport

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE she will see you at 7:30

SIGNED

1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR MR. Epstein

DATE TIME 2:48 A.M. P.M.

M Manuela

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She said that Sophie got her messages & said that she's sorry for not seeing you in California.

SIGNED

1184

## IMPORTANT MESSAGE

FOR Sarah.

DATE 11-4-04 TIME 2:40 A.M. [✓ P.M.]

M

OF

PHONE/ MOBILE 644 · 7226

| | | | |
|---|---|---|---|
| TELEPHONED | | [✓ PLEASE CALL] | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

Return Brittney's Call

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 12-04-04 TIME 2:55 A.M. [✓ P.M.]

M

OF From Sarah

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

Britney would like to work @ 4:00 pm if possible.

[[illegible] is scheduled for 5:00 today]

SIGNED the movie is @ 7:30

1184

---

## IMPORTANT MESSAGE

FOR Sarah

DATE 12/6/04 TIME 1:00 A.M. [✓ P.M.]

M

OF Britney

PHONE/ MOBILE (561) 965-6857

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

Please call her

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J.E.

DATE 12/6/04 TIME 1:30 A.M. [✓ P.M.]

M r. Harry Beller

OF

PHONE/ MOBILE (212) 750-1176

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

Returning your Call

SAO2939

SIGNED

1184

## IMPORTANT MESSAGE

FOR Mr. J.E.
DATE 12/04/04 TIME 2:40 AM [✓ PM]
M r Goldsmith
OF
PHONE/ MOBILE (772) 971-1000

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
Please call
him

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J.E.
DATE 12/04/04 TIME 4:20 AM [✓ PM]
M s G. Maxwell
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
Please call her.

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J.E.
DATE 12/04/04 TIME 5:30 AM [✓ PM]
M s G. Maxwell
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
Please call her

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J.E.
DATE 12/04/04 TIME 5:40 A.M. [✓ P.M.]
M Jo Anne
OF (561)
PHONE/ MOBILE 714-0546

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
Please call her

SAO2938

SIGNED

1184

## IMPORTANT MESSAGE

FOR SARAH
DATE 12/9/04 TIME 10:20 A.M. [✓ P.M.]
M VOMAR
OF Consulting
PHONE/MOBILE (951)709-7356

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE "Scheduling for soirs thru Palm Beach House"

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J E
DATE 12/9/04 TIME 5:00 A.M. [✓ P.M.]
Mr. Goldsmith
OF
PHONE/MOBILE (772) 971-1000

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please Call him

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J.E.
DATE 12/09/04 TIME 8:30 [✓ A.M.] P.M.
Ms Svetlana
OF
PHONE/MOBILE (917) 774-3061

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE "Tell him that I Called"

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J.E.
DATE 12/09/04 TIME 8:00 A.M. [✓ P.M.]
Mr Wexner
OF
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE ~~Please~~ She will call back

SA02943

SIGNED

1184

SC1184 10/01

## IMPORTANT MESSAGE

FOR J.E.
DATE 1.8.05 TIME 4:05 A.M. [✓ P.M.]
M Amya
OF
PHONE/ MOBILE (818) 445-9879

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
Please call me back!

SIGNED
1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 01/08/05 TIME 10:15 [✓ A.M.] P.M.
M Nadia
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
please call
her

SIGNED
1184

---

## IMPORTANT MESSAGE

FOR J.E
DATE 1.8.05 TIME 4:55 A.M. [✓ P.M.]
Mr Copperfield
OF Cell (702) 235 5555
PHONE/ MOBILE (212) 753-6555

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE
'Please call him'

SIGNED
1184

---

## IMPORTANT MESSAGE

Jeffrey
FOR 01/08/05 9:30
DATE Jean Luc TIME A.M. P.M.
M
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE [illegible]king if you
have called
him he has
~~sth for~~ some
message for you

SA02949

SIGNED
1184

SC1184 10/01

## IMPORTANT MESSAGE

FOR J.E.
DATE 2/24/05 TIME 4:18 A.M. [✓ P.M.]
M Katia
OF
PHONE/ MOBILE 011-551183834951

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Please! Call her
Tomorrow is her
birthday

SIGNED J.
1184

---

## IMPORTANT MESSAGE

FOR J.E.
DATE 2/22 TIME 12:45 A.M. [✓ P.M.]
M Shana
OF
PHONE/ MOBILE (561) 689-4717

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Please! Call her.

SIGNED J.
1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 2/25/05 TIME 01:10 A.M. [✓ P.M.]
M Dun Bois
OF
PHONE/ MOBILE 914 552 4400

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☑ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Please call
him back

SIGNED
1184

---

## IMPORTANT MESSAGE

FOR Mr. Epstein
DATE 2/24/05 TIME 11:19 [✓ A.M.] P.M.
M Katia
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE She needs Leon's
telephone number.
Left her #
917-678-2772

SIGNED LER
1184

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 2/25/05 TIME 1:39 A.M. ~~P.M.~~

M Ghislaine

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Third she called

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 2/25/05 TIME 9:42 ~~A.M.~~ P.M.

M [redacted]

OF

PHONE/ MOBILE 561 [redacted]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She would like to speak with you.

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR

DATE TIME A.M. P.M.

M

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 2/25/05 TIME 12/2 A.M. P.M.

M

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED [redacted]

1184

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 02/26/05 TIME 11:15 [✓ A.M.] P.M.

M Dana

OF

PHONE/ MOBILE 750 802 4061

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please call her back in 1630 She is on the way to the gym

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 02/25/05 TIME 05:30

M Jean-luc

OF

PHONE/ MOBILE You have it

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Going back to conversation... what about Paris on Saturday.

SIGNED

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 2/26/05 TIME 12:40 A.M. [✓ P.M.]

M Sendin

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please call her

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 2/26/05 TIME 12:21 A.M. [✓ P.M.]

M Anice

OF

PHONE/ MOBILE 646 436 9784

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please call her back

SIGNED

1184

## IMPORTANT MESSAGE

FOR J.E.

DATE 2/27/05 TIME 10:18 A.M. P.M.

M

OF Ms. Maxwell

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She is home

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 2/26/05 TIME 4:40 A.M. [✓ P.M.]

M Gean Luc

OF

PHONE/MOBILE no phone #

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please!

Call him

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 2/28/05 TIME 12:30 A.M. [✓ P.M.]

M

OF

PHONE/MOBILE [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She is wondering if 2:30 is ok cuz she needs to stay in schooll

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 02/27/05 TIME 07:45 A.M. [✓ P.M.]

M Jean Luc

OF

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | J | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE That he called back

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 2/28/08 TIME 12:17 A.M. [✓ P.M.]
M Darren
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE He needs to speak with you.

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 2/28/05 TIME 12:10 A.M. [✓ P.M.]
M Laurence Krauss
OF
PHONE/ MOBILE 216 970 3496

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE He has sent you some faxes that he would like follow up.

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 2/28/05 TIME 5:30 A.M. P.M.
M Ghislaine
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Pls call back

SIGNED

---

## IMPORTANT MESSAGE

FOR Jeffrey.
DATE 2/27/05 TIME 11:20 [✓ A.M.] P.M.
M Sarah.
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please call her back. She wanted make sure you know that she is going to meet Ghislaine and go with her to the Ranch

NED

1184

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 
TIME 6:05 ~~A.M.~~ P.M.
M
OF NATALIE
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Call back

SIGNED Nadia

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 2/28/05
TIME 7:11 A.M. [✓ P.M.]
M Natalie
OF
PHONE/ MOBILE 917 204 9896

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Barbara is away.
Back on Wensday
and she might
have sth on Friday

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 02/28/05
TIME 7:56 A.M. [✓ P.M.]
M Teala
OF
PHONE/ MOBILE 917 603 2296

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☑ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE That she called
please call her
Back

---

## IMPORTANT MESSAGE

FOR Ghislaine
DATE 02/28/05
TIME 7:50 A.M. [✓ P.M.]
M Ghislaine
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Please call
back

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 3/5/05 TIME 12:20 A.M. [✓ P.M.]
M Ghislaine
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Pecno still doesn't answer the phone.

SIGNED AM 1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 3/1/05 TIME 10:20 [✓ A.M.] P.M.
M Cecilia
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She had on the phone Mr. Harvey Weinstein

SIGNED 1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 3/5/05 TIME 12:22 A.M. [✓ P.M.]
M Christina
OF
PHONE/ MOBILE 561 389 6874

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She has problems with car... could she be here at 2 pm?

SIGNED

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 3/5/05 TIME 11:50 [✓ A.M.] P.M.
M Larry Kizoski
OF
PHONE/ MOBILE 917 868 6195

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Person for the car will be here in 15 min. to drop off foam and papers

SIGNED 1184

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 3/6/05 TIME 03:0 A.M. [✓ P.M.]

M Mort Zuckerman

OF

PHONE/ MOBILE 917 750 1900

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Returning your phone call

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 3/06/05 TIME 11:40 [✓ A.M.] P.M.

M Glen

OF

PHONE/ MOBILE 914 669 4651

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE That he call Deol

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 3/7/05 TIME 7:30 [✓ A.M.] P.M.

M Dr. Moskowitz

OF office

PHONE/ MOBILE 833-6116

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Do you want to see him?

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Ms. G. Maxwell

DATE 3/06/05 TIME 9:01 [✓ A.M.] P.M.

M Bruce

OF From The Island

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Left his cell #

340-771-1339

SIGNED

1184

## IMPORTANT MESSAGE

FOR Sarah

DATE 3/20/05 TIME 1.10 A.M. P.M.

M Haley

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Left her cell #

308-0282

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 3/18/05 TIME 8:05 A.M. [✓ P.M.]

M Jeff Staly

OF (212) 744-0770

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Ms. G. Maxwell

DATE 3/19/05 TIME 3:45 A.M. [✓ P.M.]

M Erin

OF Spa The Breakers

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Appointment is at 9:30am tomorrow. Christine is not available if it's okay to have another person.

SIGNED

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 3/18/05 TIME 12:55 A.M. [✓ P.M.]

M Sarah

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SAO01474

SIGNED J

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 04/01/05 TIME 12:20 A.M. P.M.
M Ghislaine
OF
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Glen has pulled musle and he is at the hospital "Good Sam" They have called dr. Moskovite and everything has been organized. In this case propably they won't make for lunch.
SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E.
DATE 3/31/05 TIME 7:05 A.M. [✓ P.M.]
M Leslie Wexler
OF
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
SIGNED J.

1184

#16

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 04/01/05 TIME 11:07 [✓ A.M.] P.M.
M Cecilia
OF
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She had on the phone Mr. Cipriani
SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey Moscow
DATE ~~04~~ 04/1/05 TIME 07:56 [✓ A.M.] P.M.
M Genia
OF
PHONE/MOBILE No number he will call back

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE That he called
SIGNED

1184

SAO2972

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/05 TIME 02:10 A.M. P.M.
M Ghislaine
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | X |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/05 TIME 12:04 A.M. [✓ P.M.]
M [illegible]
OF
PHONE/ MOBILE 561 [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E
DATE 4/10/05 TIME 1:20 A.M. [✓ P.M.]
M Dana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She went runing
and back to the gym

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J.E.
DATE 4/10/05 TIME A.M. P.M.
M Dana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She went running

SIGNED

1184

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/05 TIME 4:40 A.M. [✓ P.M.]
M
OF [illegible]
PHONE/MOBILE [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She is waiting for her friend to call her back. She would like to speak with you

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/[illegible] TIME [illegible] A.M. P.M.
M [illegible]
OF [illegible]
PHONE/MOBILE [illegible]

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE [illegible]

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/11/05 TIME 11:40 [✓ A.M.] P.M.
M Melisa Mancs
OF
PHONE/MOBILE 351 0944

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/05 TIME 1:05 A.M. [✓ P.M.]
M Ghislaine
OF
PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please call her back

SIGNED

## IMPORTANT MESSAGE

FOR J. E.

DATE 5/9/05 TIME 3:05 A.M. [✓ P.M.]

M Kaytana

OF (212) 645-7741

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 5/9/05 TIME 3:06 A.M. [✓ P.M.]

M Joana

OF 714-0546

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 4:45 A.M. [✓ P.M.]

M Nadia -

OF

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Thank you -

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 2:15 A.M. [✓ P.M.]

M Les Wexner

OF

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | X | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

## IMPORTANT MESSAGE

FOR

DATE 5/24/05 TIME 9:10 [✓ A.M.] P.M.

M Eva

OF

PHONE/MOBILE call her at home

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E

DATE 5/9/05 TIME 7:20 A.M. [✓ P.M.]

M Mrs Maxwell

OF

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 12 A.M. [✓ P.M.]

M Danielle

OF

PHONE/MOBILE 6462261403

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 10.25 [✓ A.M.] P.M.

M Nadia

OF

PHONE/MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | ✓ | SPECIAL ATTENTION | |

MESSAGE she got there

safe

SIGNED

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 04/01/05 TIME 12:20 A.M. P.M.

M Ghislaine

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Glen has pulled musle and he is at the hospital "Good Sam" They have called dr. Moskovitz and everything has been organized. In this case propably they won't make for lunch.

SIGNED

1184

1c

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 3/31/05 TIME 7:05 A.M. [✓ P.M.]

M Leslie Wexler

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

#16

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 04/01/05 TIME 11:07 [✓ A.M.] P.M.

M Cecilia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She had on the phone Mr. Cipriani

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR ~~Jeffrey~~ from Moscow

DATE ~~07~~ 04/1/05 TIME 07:56 [✓ A.M.] P.M.

M Genia

OF

PHONE/ MOBILE No number he will call back

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE That he called

SIGNED

1184

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/05 TIME 02:10 A.M. P.M.
M Ghislaine
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | X |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey
DATE 4/9/05 TIME 12:04 A.M. [✓ P.M.]
M [redacted]
OF
PHONE/ MOBILE 561 [redacted]

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E
DATE 4/10/03 TIME 1:20 A.M. [✓ P.M.]
M Dana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She went runing
and baik to the gym

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J.E.
DATE 4/10/05 TIME A.M. P.M.
M Dana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She went running

SIGNED

1184

SAO2986

## IMPORTANT MESSAGE

FOR J. E.

DATE 5/9/05 TIME 3:05 AM [✓ PM]

M Kaytana

OF (212) 645-7741

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 5/9/05 TIME 3:06 AM [✓ P.M.]

M Joana

OF 714-0546

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 4:45 A.M. [✓ P.M.]

M Nadia -

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Thank you -

SIGNED

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 2:15 A.M. [✓ P.M.]

M Les Wexner

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☒ | SPECIAL ATTENTION | ☐ |

MESSAGE

1184

## IMPORTANT MESSAGE

FOR

DATE 5/24/05 TIME 9:10 [✓ A.M.] P.M.

M Eva

OF

PHONE/ MOBILE call her at home

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | ☒ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E

DATE 5/9/05 TIME 7:20 A.M. [✓ P.M.]

M Mrs Maxwell

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 12 A.M. [✓ P.M.]

M Danielle

OF

PHONE/ MOBILE 6462261463

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 10.25 [✓ A.M.] P.M.

M Nadia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | ✓ | SPECIAL ATTENTION | |

MESSAGE She got there Safe

SIGNED

1184

## IMPORTANT MESSAGE

FOR Sarah

DATE 6-18-05 TIME 3:10 A.M. P.M.

M Heather

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ✓ |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 6/13/05 TIME 10:58 [✓ A.M.] P.M.

M G. M.

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please. Call her back

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 06/12/05 TIME 12:05 A.M. P.M.

M Jefry Goldsmith

OF

PHONE/ MOBILE 772

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J. Epstein

DATE 6/11/05 TIME 12:25 A.M. [✓ P.M.]

M Coleen

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | ✓ | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

## IMPORTANT MESSAGE

FOR J. E.
DATE 7/4/05 TIME 6:25 A.M. [✓ P.M.]
M
OF G. M.
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.
DATE 7/4/05 TIME 7:20 [✓ A.M.] P.M.
M Tatiana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE TIME 12:30 A.M. [✓ P.M.]
M G-
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She called Eduardo - She's going to have dinner w/ him - He's not going to Grand Prix - but he told her to call his secretary to organize passes -

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE TIME 10:35 A.M. [✓ P.M.]
M Tatyana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Called to say goodnight

SIGNED

1184

## IMPORTANT MESSAGE

FOR J. E.

DATE 8/19/05 TIME A.M. P.M.

M Cecilia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Remanid you about conference call at 9 AM

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR Jeffrey

DATE 25/07/05 TIME 11:45 [✓ A.M.] P.M.

M from Wexner office

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Jim Lucas the head of the text department has answer on aircraft His number is

614 415 1078

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME A.M. P.M.

M

OF Joanna

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She doesn't want to come to the movies, but call her if you want a massage before or after the movie.

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME 9.05 [✓ A.M.] P.M.

M G-

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Sue's at 71st please call

SAO01084

SIGNED

1184

## IMPORTANT MESSAGE

FOR J.E.

DATE 8/19/05 TIME 4:12 A.M. [✓ P.M.]

M G.M.

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE she left message on anwring machine.

SIGNED J.

1184

---

## IMPORTANT MESSAGE

J.E.

FOR 8/19/05 7:50

DATE Adriana TIME A.M. P.M.

M

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Alex forgot to call Lesley to get information Where he has to go to Hampton and how to met this person?
He can be reach on Tatiana cellphone

J

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME A.M. P.M.

M

OF Sarah

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE please Can Britney work on Sunday @ 4.00 and [illegible] @ 4.30

SIGNED

1184

---

## IMPORTANT MESSAGE

J.E.

FOR 8/19/05 7:55

DATE Adriana TIME A.M. P.M.

M

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Ashley will be Were tommorow at 11:00 AM

J.

SIGNED

1184

## IMPORTANT MESSAGE

FOR J. E

DATE 9/3/05 TIME 9:50 A.M. P.M.

M Adriana

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE I left message for Ashley to confirm for 11⁰⁰ AM and Vanessa for 4:30 PM

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 8/22/05 TIME 9:20 [✓ A.M.] P.M.

M Nicole

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E

DATE 9/4/05 TIME 12:55 A.M. P.M.

M Brittney

OF

PHONE/ MOBILE 662-3093

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE She would like to reschedule her time

SIGNED J.

1184

SC1184 10/01

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 8/22/05 TIME A.M. P.M.

M G M

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SA001477

SIGNED J.

1184

## IMPORTANT MESSA

FOR M. J. Epstein

DATE 8/23/05 TIME 2:18 A.M. P.M.

M Alicia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED L

1184

---

## ORTANT MESSAGE

FOR JE

DATE TIME A.M. P.M.

M

OF Sarah

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Call her back, please

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR M. J. Epstein

DATE 8/22 TIME 4:21 A.M. [✓ P.M.]

M Alicia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Please call her.

SIGNED L

1184

---

## IMPORTANT MESSAGE

FOR M. J Epstein

DATE 8/21 TIME 11:39 [✓ A.M.] P.M.

M Nadia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE [illegible] cannot work today. Ms. Brittney will be here at 2 p.m.

SIGNED K

1184

## IMPORTANT MESSAGE

FOR

DATE TIME A.M. P.M.

M

OF NADIA

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
I went to a store to
buy food
I will be back @ 5.00

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME A.M. P.M.

M

OF Adriana

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
Christina & [illegible] are
confirmed

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME A.M. P.M.

M

OF Jenny

PHONE/ MOBILE 917 330 1033

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
Please call back

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR

DATE 1:00 TIME A.M. P.M.

M

OF NADIA

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE
The movie
starts @ 7.15

SIGNED

1184

## IMPORTANT MESSAGE

FOR J. E.
DATE 9/4/05 TIME 3:40 A.M. [✓ P.M.]
M [redacted]
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Ms. G. Maxwell
DATE 9/4/05 TIME 1:40 A.M. P.M.
M Coleen
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☑ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE She will be here at 3pm with somebody.

SIGNED L.

1184

---

## IMPORTANT MESSAGE

FOR J. E.
DATE 9/4/05 TIME 7:25 A.M. [✓ P.M.]
M Adriana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Canceled Julie. She would like to speak to you. I belive about college - 561.801.3590

Shoul I schedule any one else?

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Mr. J. Epstein
DATE 9/4/05 TIME 2:08 A.M. P.M.
M [redacted]
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☑ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SAO01089

SIGNED L

1184

## IMPORTANT MESSAGE

FOR J.E.

DATE 9/10/05 TIME 11:16 [✓ A.M.] P.M.

M G.M.

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Dana Burns got invitation

SIGNED J.

1184

---

## ORTANT MESSAGE

FOR J.E.

DATE 9/5/05 TIME 10:25 [✓ A.M.] P.M.

M Brittney

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE 5:00 PM is O.K. with her

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 9/10/05 TIME 11:16 [✓ A.M.] P.M.

M G.M.

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Dana Burns got an invitation

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 9/8/05 TIME 4:50 A.M. [✓ P.M.]

M Tatum

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Her new phone # 574-0400

SAO01090

SIGNED J.

1184

## IMPORTANT MESSAGE

FOR J.E.
DATE 9/10/05 TIME 12:50 A.M. [✓ P.M.]
M Celina
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Call her in North Salem

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J.E.
DATE 9/10/05 TIME 11:16 [✓ A.M.] P.M.
M G. M.
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Dana Burns decline invitation

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR JE
DATE TIME A.M. P.M.
M DANA
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE RETURNING YOUR CALL

@ $12^{20}$

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J.E.
DATE 9/10/05 TIME 1:15 A.M. [✓ P.M.]
M Adriana
OF
PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Lauren confirm 4 PM

SAO01091

SIGNED J

1184

## IMPORTANT MESSAGE

FOR J. E.

DATE 9/11/05 TIME 9:15 [✓ A.M.] P.M.

M Adriana

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE I got a car for

[illegible]

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR JE

DATE TIME A.M. P.M.

M

OF N

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Adriana hasn't confirmed Julie for 11.00 yet so she is keeping Britney on hold in case Julie doesn't call back

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR Mr. J. Epstein

DATE 9/11/05 TIME 10:01 [✓ A.M.] P.M.

M George Goldsmith

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 9/10/05 TIME 10:10 A.M. [✓ P.M.]

M Adriana

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Julie will be at 11:AM

Do you want me to cancel Brittney

SIGNED J.

1184

## IMPORTANT MESSAGE

FOR J.E.

DATE 10/1/05 TIME 2:50 [✓ A.M.] P.M.

M Nadia

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR J.E

DATE 10/1/05 TIME 9:30 [✓ A.M.] P.M.

M Sarah

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE [illegible] confirmed
at 11 AM
and [illegible] - 4 PM

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 10/1/05 TIME 7:10 A.M. [✓ P.M.]

M John Brockman

OF

PHONE/ MOBILE (212) 595-0208

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J

1184

---

## IMPORTANT MESSAGE

FOR J.E.

DATE 10/1/05 TIME 10:15 [✓ A.M.] P.M.

M Tatum

OF

PHONE/ MOBILE 574-0400

| | | | |
|---|---|---|---|
| TELEPHONED | X | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J

1184

## IMPORTANT MESSAGE

FOR J. E.

DATE 10/2/05 TIME 10:40 [✓ A.M.] P.M.

M Sarah

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE Julie is sick and she can't come today

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 10/1/05 TIME 7:20 A.M. [✓ P.M.]

M Jerry Goldsmith

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR Mr. J. Epstein

DATE Oct. 2.05 TIME 12:30 A.M. [✓ P.M.]

M Tatum

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

# 574-0400 (561)

SIGNED L

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 10/2/05 TIME 10:20 [✓ A.M.] P.M.

M Julie

OF 301-3590

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | |
| CAME TO SEE YOU | | WILL CALL AGAIN | |
| WANTS TO SEE YOU | | RUSH | |
| RETURNED YOUR CALL | | SPECIAL ATTENTION | |

MESSAGE

SAO01470

SIGNED J

1184

## IMPORTANT MESSAGE

FOR J. E.

DATE 10/3/05 TIME 2:50 A.M. [✓ P.M.]

M Tila

OF

PHONE/ MOBILE (917) 603-2296

| | | | |
|---|---|---|---|
| TELEPHONED | ☒ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 10/2/05 TIME 9:05 A.M. [✓ P.M.]

M Sandy Berger

OF

PHONE/ MOBILE (516) 759-2661

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Can you call him at this # between $10^{00}$ - $10^{30}$ PM

SIGNED J.

1184

---

## IMPORTANT MESSAGE

FOR J. E.

DATE 10/3/05 TIME 4:10 A.M. [✓ P.M.]

M Sarah

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ☐ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE Ashley will be 1/2 hour late

---

## IMPORTANT MESSAGE

FOR Mr. J. Epstein

DATE 10-2-05 TIME 12:30 A.M. P.M.

M Natalie

OF

PHONE/ MOBILE

| | | | |
|---|---|---|---|
| TELEPHONED | ✓ | PLEASE CALL | ☐ |
| CAME TO SEE YOU | ☐ | WILL CALL AGAIN | ☐ |
| WANTS TO SEE YOU | ☐ | RUSH | ☐ |
| RETURNED YOUR CALL | ☐ | SPECIAL ATTENTION | ☐ |

MESSAGE

EXHIBIT 4

IL' Villaggio 1455 Ocean Dr. Apt 811

Gretta 9AM Aventura limo
[redacted] is back in PB 714-0546
Gretchen 8C (Friends Apt?)
~~Tammy~~ (other book?)
Pinto
Bard
Tammy (Port St)
Courtney W. (FRIDAY)

* ADventure Limousine Service
PO BOX 80-0146 Fed ID 65-0376225
adventura, FL 33280 [redacted]
} 6/19/05

Forward to Sara. trip 6/20/05 9:00 AM Military
[redacted] 1455 Ocean DR. South Beach 811
358 EL BIRILLO.

Ruta - in miami [redacted]
[redacted] Work - 900AM Tammy @ office.

[redacted] to LSJ Thursday — yes to GO!

[redacted] 3:30 Improv

Shauna colleen

? Miss Sarah - would you like to go running with me. Miss Dana

Dawn - Ballet
Greta - [redacted]

Natalya

[redacted]

Craig taFoya
[redacted] (h)
(o)
In From california 3pm

[redacted]

# EMERGENCY 911

1-888-[illegible]

| | | |
|---|---|---|
| **ALARM SYSTEM** | Benham (Joe (Technician)) | 1-800-940-4112<br>954-578-1990 |
| **FIRE RESCUE** | | (561) 838-5422 |
| **HOSPITAL** | Good Samaritan Hospital<br>1309 North Flagler Drive<br>West Palm Beach, FL 33401 | (561) 650-6201 |
| **POISON** | | (561) 838-5422 |
| **POLICE** | | (561) 471-2000 |
| **VETERINARIAN** | Island Animal Hospital<br>262 Sunset Avenue<br>Palm Beach, FL 33480 | (561) 833-8552 |
| **MIKE PEZZULO** | Neighbouring House Manager who can be called in emergencies | ~~(561) 854-9192~~ Disconnected |
| **MS MAXWELL** | Portable<br>Home | (917) 520-3106<br>(212) 879-9366 |
| ~~**JONITHA MACKENZIE**~~ | ~~Portable~~<br>~~Home~~ | ~~(917) 601-4143~~<br>~~(212) 535-7974~~ |

WORTH BUILDERS - [redacted]

**116 East 65th.Street**
**New York NY 10021**

[redacted]

**Ms Ghislaine Maxwell**

**Staff**

Michelle Campos
Jennifer

House Managers
Joseph & Florena Rueda
Joseph
Florena

**358 El Brillo Way, Palm Beach**
**Florida 33480**

**Mr. Jeffrey Epstein**

**Ms Ghislaine Maxwell**

**Staff**
~~Lucian & Rushi McHawa~~

| | | |
|---|---|---|
| Jerome Pierre | (Gardner) | M- F |
| Alan Stopeck | Landscape designer, Checks the garden | |
| Francis & Pastora | House cleaning service | |
| Francis Peadon | handles all cleaning/laundry | |
| Bill Peadon | | |
| Nicole Hessey | | |
| Cherie Lynch | | |

[redacted]

Nicole and Cherrie are well versed in supervising and shopping for PB, when necessary

**Pilots**

Larry Visosky

David Rogers

Dave

[redacted]

**Car phones**
Black Mercedes 600

Black Suburban
Mercedes Sports Convertible

## Residences

**Zorro Ranch**
**49, Zorro Ranch Road,**
**Stanley, New Mexico 87056**

[redacted]

**Mr. Jeffrey Epstein**

**Ms Ghislaine Maxwell**

**Staff**
Office

Brice & Karen Gordon Home
Brice
Karen

Floyd & Deire Home

Manolito
**Little St. James**
**C/0 Financial Trust Company**
**6100, Red Hook Quarters, Suite B3,**
**St. Thomas, USV1 00802.**

**Mr. Jeffrey Epstein**

**Ms. Ghislaine Maxwell**

**Staff**

Miles & Cathy Alexander
Miles
Cathy
**Paris**
**22 Avenue, Foch, Apt 2DD,**
**Paris, France 75116.**
Tel: 011 331 441 70210
Fax: 011 331 441 70211
**Staff**
Valdson Cotrin

**London**
**44 Kinnerton Street**
**London SW1X8ES**
Tel: 011 44 207 838 9129
Fax: 011 44 207 838 9128
Staff
Kathie Orchard

6/20/05

Flight Safety Client - LARRY Visoski - Hyperion

Jenny 5:30-10:30

Key scan - door key

340-776-4912

212-750-2408

Tah? 6624199

Dr. Jarecki message

~~[illegible]~~ Cecilia "called twice" 2:45PM + 3PM

email ↗ Maer Roshan <mroshan@radarmagazine.com>

<cecilia Steen@gmail.com

message print out - 917-346-9154 Diana Cook

Dr. Nagrani (212) 688-1090

For Ghislaine maxwell > louella's cell phone (cingular) 561-818-8961

561-752-6380
707-4985

ADRIANA'S PARENTS ARE GOING to the embassy on the 23rd

letter - J. epstein & co.
The Villard House
457 MADISON AVENUE 4th Floor
NY NY 10022

SARAH Kellen - 116 A EAST 65th ST
NY NY 10021 917-855-3363

04-31-05

#2 Tri - 972 3527 1080 (h)

972 544 986 337 (p)

- [illegible] Marcela 917-699 8496

NEW YORK AT&T Wireless, Inc

- Patricia Velasquez

Kelly Bovino

310 722 9948

Christie Get rid of code Mum

33 620724063

510 813 2533 Christie

212-517 9330 Johanna Farkas

VERIZON NEW YORK, INC.

Ghislaine Maxwell

EXHIBIT 5

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE: 15-cv-07433-RWS

VIRGINIA GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.
_________________/

VIDEOTAPED DEPOSITION OF TONY FIGUEROA

Volume 1 of 2

Pages 1 - 157

Taken at the Instance of the Defendant

DATE: Tuesday, June 28, 2016

TIME: Commenced: 8:59 a.m.
Concluded: 1:22 p.m.
PLACE: Southern Reporting Company
B. Paul Katz Professional Center
(SunTrust Building)
One Florida Park Drive South
Suite 214
Palm Coast, Florida 32137

REPORTED BY: LEANNE W. FITZGERALD, FPR
Florida Professional Reporter
Court Reporter and Notary Public

APPEARANCE OF COUNSEL

ON BEHALF OF THE PLAINTIFF:
BRADLEY J. EDWARDS, Esquire
Farmer, Jaffe, Weissing, Edwards, Fistos & Lehrman, P.L.
425 North Andrews Avenue
Ft. Lauderdale, Florida 33301
954-524-2820
Brad@pathtojustice.com

ON BEHALF OF THE DEFENDANT:
LAURA A. MENNINGER, Esquire
Haddon, Morgan and Foreman, P.C.
150 East 10th Avenue
Denver, Colorado 80203
303-831-7364
Lmenninger@hmflaw.com; Nsimmons@hmflaw.com

Also appearing: Jenny Martin, Videographer from Abel
Virginia Giuffre, Plaintiff

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- - -

STIPULATION

It is hereby stipulated and agreed by and between counsel present at this deposition and by the deponent that the witness review of this deposition would be waived.

INDEX OF EXHIBITS

(MARKED BY THE DEFENDANT:)

| | |
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| Defendant's Exhibit 1<br>(Palm Beach County Sheriff's Reports - Case Number 98041883) | 42 |
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- - -

(MARKED BY THE PLAINTIFF:)

| | |
|---|---|
| Plaintiff's Exhibit 1<br>(Photos) | 162 |
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- - -

A No. That was it.

Q Where were you living at the time she left?

A My parents' house.

Q Is that where you were making the phone calls?

A Yeah.

Q Is that how you remember it?

A Yep.

Q Were your parents happy about the phone bill?

A Well, they did not care, because they knew that Jeffrey had money. And I told them -- I was, like, "Well, he's going to be paying the bills, so don't worry about."

And they were, like, "All right. As long as it gets paid."

And it didn't get paid. And I didn't have a place to live, and so...

Q Did you ever try to get money from Jeffrey to pay the phone bills?

A No. Pretty much the only time I had ever talked to Jeffrey after that was mainly the conversations are, "Where is Virginia? I know you know where she's at."

I'm, like, "No, dude, I don't. You're the one that (descriptive sound) sent her away, not me. I have no clue. I have not heard from her. You're the reason she's not here, so why are you even coming to me? How would I know? She left me. She did not leave some guy I knew, she left me." You know.

Q How did those conversation happen?

A Because he would just call me. He was just trying to find her. He was, like, hunting her down.

Q He called you on your phone?

A Uh-huh (affirmative). He had my number.

Q Your cell phone?

A It was -- I believe so. A cell phone at the time, yeah.

Q Is that where you were getting all these expensive phone calls was your cell phone?

A No. I was using my parents' landline to make the calls.

Q Got it.

To call Thailand?

A Yeah.

Q But Jeffrey had your cell phone number?

A Yeah.

Q And you were getting calls from Jeffrey on your cell phone --

A Yes.

Q -- asking where she was?

A Uh-huh (affirmative).

Q Did he say why he was trying to find her?

A No.

Q Was it him or someone else?

A No. It was him.

Q What was his tone when he was calling and asking for her?

A I don't want to say, like, desperate, but, like, you could tell it was, like, a sense of urgency, like he was kind of upset, like, you know, where the hell is she, kind of without saying it, you know. He was -- you could tell he was definitely on the hunt, trying to figure out where she was at.

Q Did you understand that he had paid for her trip to Thailand?

A Yeah.

Q Had she ever been to Thailand before?

A Not that I was aware of.

Q Did he know whether she had just left Thailand without a word?

A I don't know what he thought. I guess he stopped hearing from her, as well.

Q Did he say that she called and said I'm getting married, and I'm never coming back?

A No. He kept asking me what was going on. I said, "Dude, I don't know. Like, if I knew, don't you think I would tell you? I mean, I have no reason to not tell you. She left me. Why would I hide anything?"

Q How did you know she had left you? She just didn't come back?

A Like I said, she had written me a note telling me she wasn't coming back.

Q So you're having a bunch of phone calls. And then all of the sudden you get a note saying, I'm not coming back?

A Yep.

Q During the phone calls, did she tell you she was breaking up with you?

A No.

Q Do you know the name of the rehab program where Philip and Ms. Roberts were together?

A No. Like I said, pretty much that whole period I was not there. Like, literally, no trace of me or her were anywhere near each other until,

EXHIBIT 6

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

-------------------------------------------x
VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

-------------------------------------------x

May 18, 2016
9:04 a.m.

CONFIDENTIAL

Deposition of [redacted], pursuant to notice, taken by Plaintiff, at the offices of Boies Schiller & Flexner, 401 Las Olas Boulevard, Fort Lauderdale, Florida, before Kelli Ann Willis, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of Florida.

that she was a daughter of one of his friends.

Q. But it was possible she was the school -- is it possible that the school she referred to was a high school?

A. Yes.

Q. And what happened at that dinner, if anything?

A. He did some magic tricks.

Q. Did you observe David Copperfield to be a friend of Jeffrey Epstein's?

A. Yes.

Q. Did Copperfield ever discuss Jeffrey's involvement with young girls with you?

A. He questioned me if I was aware that girls were getting paid to find other girls.

Q. Did he tell you any of the specifics of that?

A. No.

Q. Did he say whether they were teenagers or anything along those lines?

A. He did not.

MS. MENNINGER: Objection, leading, calls for hearsay.

BY MS. McCAWLEY:

Q. Did you ever hear or observe Jeffrey

talking on the phone about Frederic Fekkai?

A. Yes.

MS. MENNINGER: Objection, leading.

BY MS. McCAWLEY:

Q. What did you hear?

A. I heard him call someone, and say, Fekkai is in Hawaii. Can we find some girls for him?

Q. And what was your reaction to that?

A. Well, I was massaging and I didn't have a reaction. I tried to remain reactionless the whole five years.

Q. Did Jeffrey ever take you shopping?

A. Yes.

Q. Can you describe for me what happened?

A. Sure. He took me to Victoria's Secret. I believe he picked out everything and went into the room with me, the fitting room, which was very odd.

Q. Did he make any comments about being in the fitting room with you?

A. He joked that one time he was in there with another girl, and she said something like "Dad." But that's all I recall.

Q. Did Jeffrey ever talk to you -- let me back up a moment.

Have you ever been propositioned by anyone

A. Just flying over it.

Q. When you said they called, do you know who called your roommate?

A. I don't know who called my roommate.

Q. In this sort of pre-trip to New York period, do you recall discussing any of the particulars of your massages with Jeffrey, with Ghislaine?

MS. McCAWLEY: Objection.

BY MS. MENNINGER:

Q. If that makes sense.

A. No.

Q. So before you got this call, had anyone mentioned the idea of traveling to you?

A. No.

Q. Did you call Jeffrey immediately?

A. I did.

Q. And what conversation did you have with him?

A. Basically he said, I want to take you to -- to New York City. Can you be here quickly?

And I got to the house, and he said, Do you have your passport?

I said, No.

He said, Go get it.

EXHIBIT 7

```
IMII 12/10/04                DDA STATEMENT HISTORY            10.02.11  PAGE  1
JEFFREY E EPSTEIN OR                        ACCOUNT  000-000-0000-[redacted]
GHISLAINE MAXWELL OR ALFREDO RODRIGUEZ      DATE LAST STATEMENT      11/23/04
HOUSEHOLD ACCOUNT                           DATE THIS STATEMENT      12/10/04
                             *****DDA TRANSACTIONS*****
   BEGINNING        CHECKS/OTHER DEBITS  DEPOSITS/OTHER CREDITS        ENDING
   BALANCE          NBR     TOTAL AMOUNT    NBR     TOTAL AMOUNT         BALANCE
            0.00     10           4006.36     2          7439.80          3433.44

DATE   CK NBR              AMOUNT TP TRANSACTION DESCRIPTION              BALANCE
10/14                     7439.56 DP DEPOSIT                              7439.56
10/25          93          450.00 CK TELLER CASHED CHECK                  6989.56
10/25                        0.24 CR IOD INTEREST PAID                    6989.80
10/27                       69.38 DB CLARKE AMERICAN  CHK ORD             6920.42
11/01        2500         1150.00 CK TELLER CASHED CHECK                  5770.42
11/08        2504          340.00 CK CHECK                                5430.42
11/09        2502          684.87 CK CHECK                                4745.55
11/09        2505          415.86 CK CHECK                                4329.69
11/09        2503          406.25 CK CHECK                                3923.44
11/15        2511          360.00 CK CHECK                                3563.44
11/15        2512           80.00 CK CHECK                                3483.44
11/15        2501           50.00 CK CHECK                                3433.44
PF1 - PAGE FWD

ESC=CLEAR SCREEN              ALT-F2=PRINT SCREEN              ALT-X=EXIT        7
```

561 820-8790

```
IMII 12/10/04              DDA STATEMENT HISTORY            10.02.11  PAGE  2
JEFFREY E EPSTEIN OR                        ACCOUNT  000-000-0000 [redacted]
GHISLAINE MAXWELL OR ALFREDO RODRIGUEZ      DATE LAST STATEMENT       11/23/04
HOUSEHOLD ACCOUNT                           DATE THIS STATEMENT       12/10/04
                           *****DDA TRANSACTIONS*****
   BEGINNING        CHECKS/OTHER DEBITS  DEPOSITS/OTHER CREDITS         ENDING
   BALANCE          NBR    TOTAL AMOUNT    NBR    TOTAL AMOUNT          BALANCE
             0.00    19         11614.78     4          17440.24         5825.46

DATE   CK NBR               AMOUNT TP TRANSACTION DESCRIPTION           BALANCE
11/16         2507         1135.03 CK CHECK                             2298.41
11/16         2509          803.24 CK CHECK                             1495.17
11/16         2506          344.91 CK CHECK                             1150.26
11/16         2508          125.24 CK CHECK                             1025.02
11/16         2510          110.00 CK CHECK                              915.02
11/17         2514           80.00 CK TELLER CASHED CHECK                835.02
11/18                     10000.00 CR INCOMING WIRE CREDIT             10835.02
11/18                        10.00 DB INCOMING WIRE FEE                10825.02
11/18                      2500.00 CK TELLER CASHED CHECK               8325.02
11/22         2513         2500.00 CK CHECK                             5825.02
11/23                         0.44 CR IOD INTEREST PAID                 5825.46

LAST PAGE           PF2 - PAGE BKWD

ESC=CLEAR SCREEN            ALT-F2=PRINT SCREEN            ALT-X=EXIT   E   7
```

```
IMI3 12/10/04             DDA STATEMENT INQUIRY            10.02.31 PAGE    1
JEFFREY E EPSTEIN OR                        ACCOUNT  000-000-000C [redacted]
GHISLAINE MAXWELL OR ALFREDO RODRIGUEZ      DATE THIS STATEMENT      12/10/04
HOUSEHOLD ACCOUNT                           DATE LAST STATEMENT      11/23/04
                         *****DDA TRANSACTIONS*****
   BALANCE          CHECKS/OTHER DEBITS  DEPOSITS/OTHER CREDITS       BALANCE
LAST STATEMENT     NBR      TOTAL AMOUNT    NBR      TOTAL AMOUNT   THIS STATEMENT
         5825.46    10           9038.14     1          10000.00          6787.32

DATE   CK NBR            AMOUNT TY TRANSACTION DESCRIPTION                BALANCE
11/30        2515        125.00    CHECK                                  5700.46
12/03        2516       1600.00    CHECK
12/03        2517        549.29    CHECK                                  3551.17
12/06                  10000.00    INCOMING WIRE CREDIT
12/06                     10.00    INCOMING WIRE FEE
12/06                 * 2000.00    TELLER CASHED CHECK                   11541.17
12/07        2521        517.74    CHECK
12/07        2522        210.00    CHECK
12/07        2518        101.03    CHECK                                 10712.40
12/08        2519       2925.08    CHECK
12/08                 * 1000.00    TELLER CASHED CHECK (To Mr. J.E)       6787.32


ESC=CLEAR SCREEN           ALT-F2=PRINT SCREEN              ALT-X=EXIT    E    7
```

EXHIBIT 8

→ Colonial Bank /worth Ave.
– Ben Lenn
– Leonor

## BANKING

| | | |
|---|---|---|
| **Household Banking Account** | Palm Beach National Bank<br>125 Worth Avenue<br>Palm Beach, FL 33480<br>**Tel: (561) 653-5594** | Account No: [redacted]<br>Send to Eric Gany for reconciliation<br>$1,000 Petty Cash Float |

## BICYCLES

| | | |
|---|---|---|
| **Bicycles** | Palm Beach Bicycle Trail Shop<br>223 Sunrise Avenue<br>Palm Beach, FL 33480<br>**Tel: (561) 659-4583** | Mongoose Crossway 450<br>Raleigh Aluminium 300<br>Mercedes Benz<br>Cignal Sports Bike<br>Schwinn World<br>Huffy Santa Fe<br>Raleigh Sport<br>Scott Boston |

## BOOKSTORES

| | | |
|---|---|---|
| **Newspapers** | Publix Super Market<br>265 Sunset Avenue<br>Palm Beach, FL 33480<br>**Tel: (561) 655-4120** | |
| **Magazines** | Main Street News<br>255 Royal Poinciana Way<br>Palm Beach, FL 33480<br>**Tel: (561) 833-4027** | |

## CLEANING SERVICE

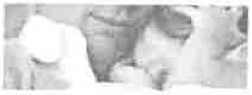
| | | |
|---|---|---|
| **Francis Peadon**<br>**House Cleaning Services** | **(561) 833-4486**<br>(561) 635-3068 Cell. 1.<br>(561) 309-5820 " 2.<br>(56) 346-1119 | Every Tuesday and Wednesday<br>8:00am - 4:00pm<br>(Francis and Pastora Peadon) |

## ENTERTAINMENT

| | | |
|---|---|---|
| **The Breakers** | One South County Road<br>Palm Beach, FL 33480<br>**Tel: (561) 655-6611** | Renew car park stickers every September |
| **Comedy Corner** | 2000 South Dixie Highway<br>West Palm Beach, FL 33401<br>**Tel: (561) 833-1812** | |
| **The Mar-a-Lago Club** | 1100 South Ocean Boulevard<br>Palm Beach, FL 33480<br>**Tel: (561) 832-2600** | |

EXHIBIT 9

BRITNEY SPEARS & BEYONCE'S VMA FEUD ANTHONY WEINER SPLIT



THE REAL REASON TOM CRUISE HASN'T SEEN HIS DAUGHTER IN YEARS

19 ACTORS WHO WERE BORN FILTHY RICH

EMAIL US A TIP

TAMPA BAY
CONQUER WITH PRIDE
FLORIDA'S MOST WELCOME SIGNS

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30:54
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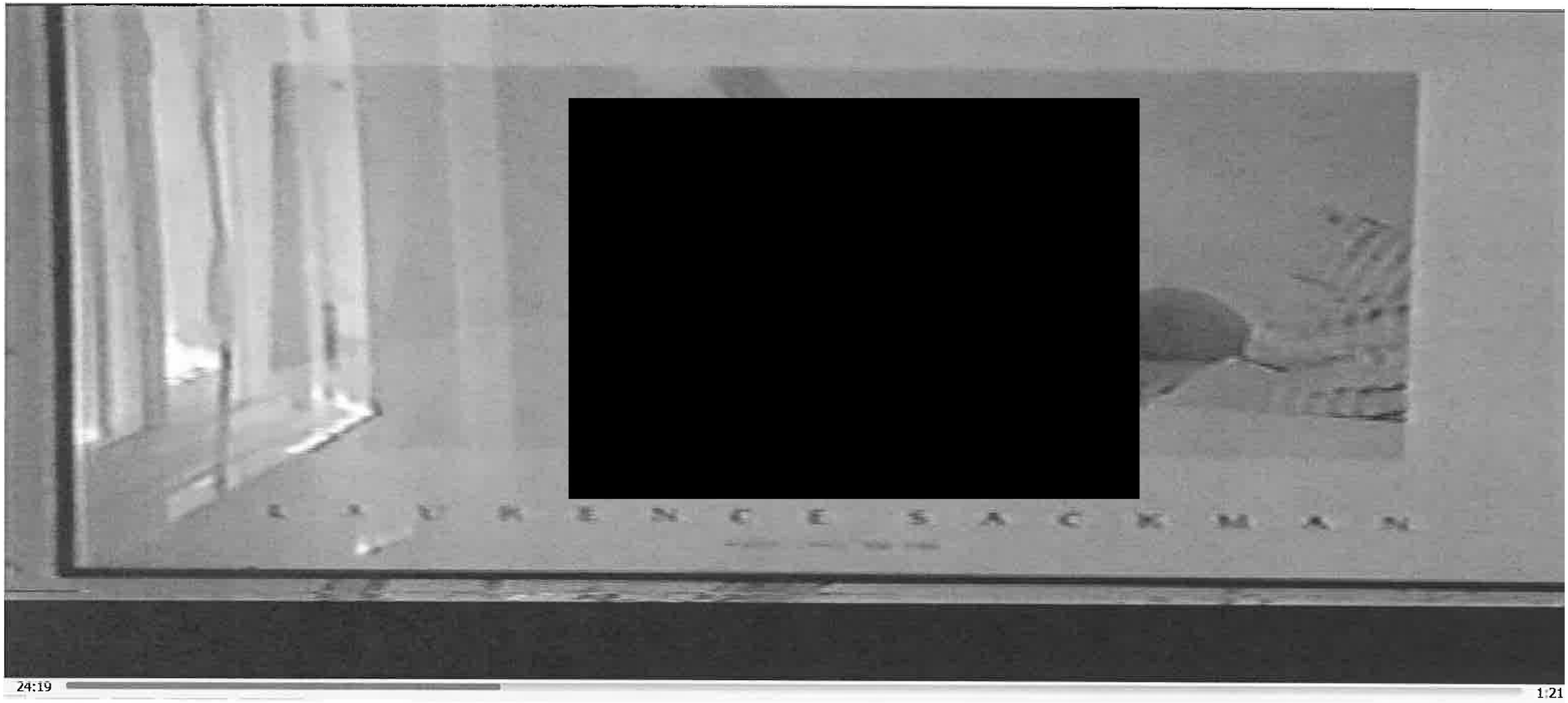
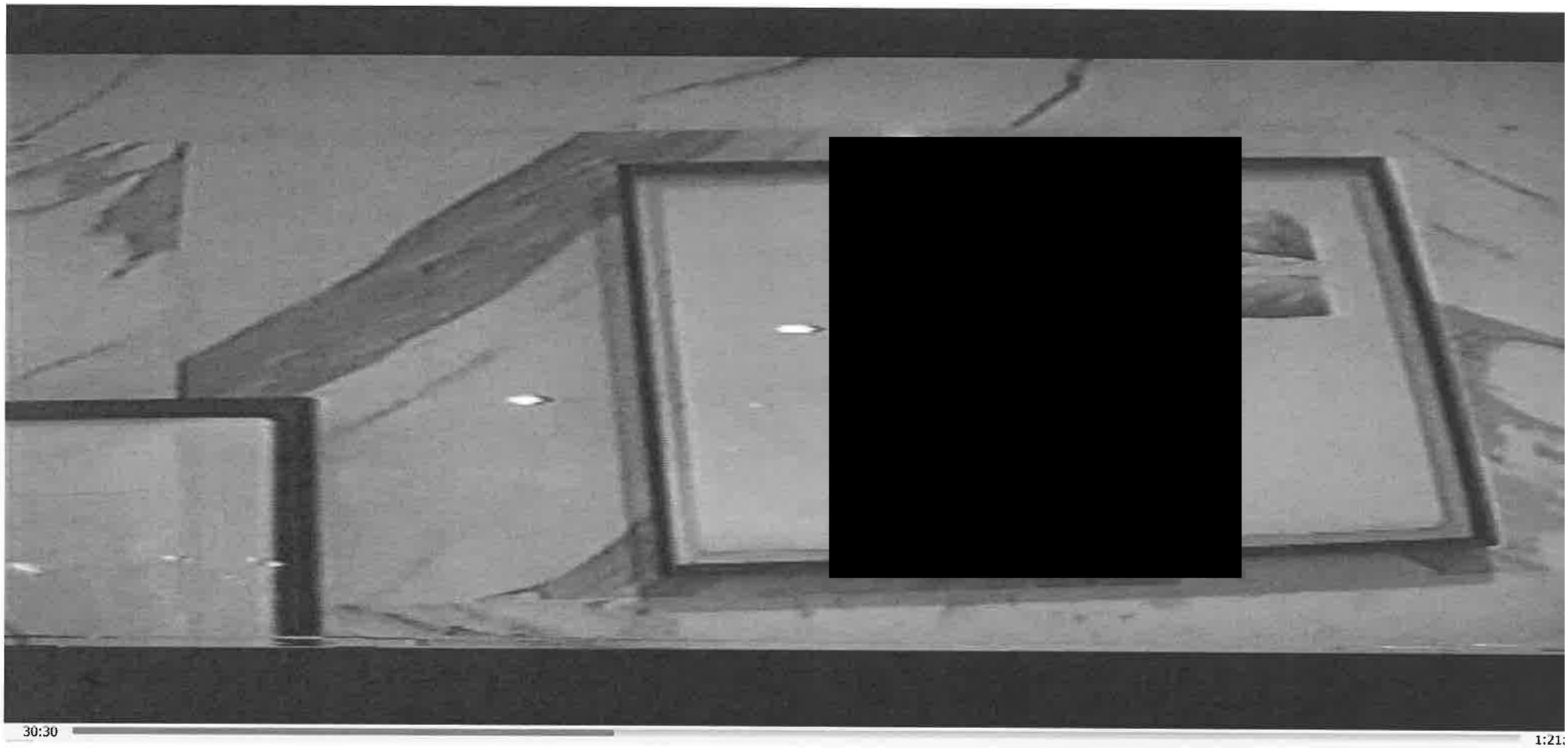

[redacted]
LAURENCE SACKMAN
24:19
1:21



[redacted]

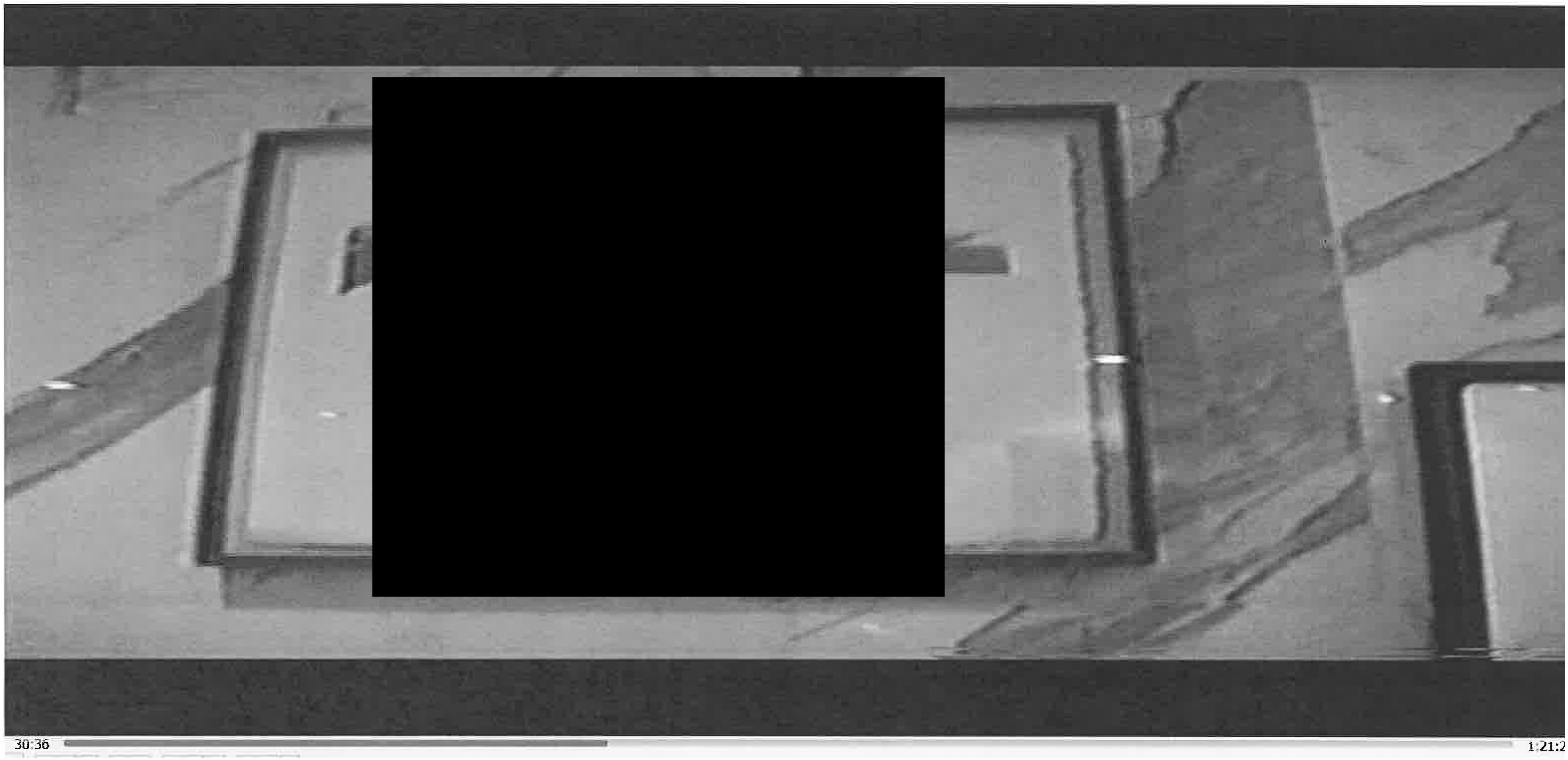

[redacted]

EXHIBIT 10

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO. 15-CV-07433-RWS

-------------------------------------------x
VIRGINIA L. GIUFFRE,

Plaintiff,

v.

GHISLAINE MAXWELL,

Defendant.

-------------------------------------------x

June 20, 2016
9:12 a.m.

CONFIDENTIAL

Deposition of [redacted], pursuant to notice, taken by Plaintiff, at the offices of Podhurst Orseck, 25 West Flagler Street, Suite 800, Miami, Florida, before Kelli Ann Willis, a Registered Professional Reporter, Certified Realtime Reporter and Notary Public within and for the State of Florida.

men and women bodies mixed together.

Q. Okay. Do you remember the photographs?

MR. PAGLIUCA: Object to form and foundation.

THE WITNESS: Not specifically, no.

BY MR. EDWARDS:

Q. At the point during your statement, the specific passage that I'm asking about is, you say, "Teenage, he's got lots of pictures of teenage girls, like real photos that he took."

A. Yeah. They were not displayed.

MR. PAGLIUCA: Object to form and foundation.

BY MR. EDWARDS:

Q. Okay. Where were they?

A. I remember one incident where he showed them to me, and they were young women in the bathtub.

Q. And did he take pictures of you?

A. Yes.

Q. Did he take pictures of you naked?

A. Yes. As far as I know, they were never recovered.

Q. How could you tell that the photographs

EXHIBIT 11

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA
CASE No.502009CA040800XXXXMBAG

JEFFREY EPSTEIN,

Plaintiff,
-vs-

SCOTT ROTHSTEIN, individually,
BRADLEY J. EDWARDS, individually, and
L.M., individually,

Defendants.

---

# VIDEOTAPED DEPOSITION OF JEFFREY EPSTEIN

Wednesday, March 17, 2010
10:17 a.m.- 1:27 p.m.

303 Banyan Boulevard
Suite 400
West Palm Beach, Florida 33401

Reported By:
Sandra W. Townsend, FPR
Notary Public, State of Florida
West Palm Beach Office Job #1358

Amendment Rights as provided by the U.S. Constitution.

BY MR. SCAROLA:

Q. Does a flight log kept for a private jet used by you contain the names of celebrities, dignitaries or International figures?

A. At least today, sir, I'm going to have to respectfully decline to answer based on my Fifth, Sixth and 14th Amendment Right, though I'd like to answer that question.

Q. Have you ever had a personal relationship with Donald Trump?

A. What do you mean by "personal relationship," sir?

Q. Have you socialized with him?

A. Yes, sir.

Q. Yes?

A. Yes, sir.

Q. Have you ever socialized with Donald Trump in the presence of females under the age of 18?

A. Though I'd like to answer that question, at least today I'm going to have to assert my Fifth, Sixth and 14th Amendment Right, sir.

Q. Have you socialized with Alan Dershowitz?

A. Yes, sir. He's my attorney, as well as a friend.

Q. Have you ever socialized with Alan Dershowitz in the presence of females under the age of 18?

MR. PIKE: Form.

THE WITNESS: Sir, at least here today, I'm going to have to assert my Fifth Amendment, Sixth Amendment and 14th Amendment Rights.

BY MR. SCAROLA:

Q. Have you ever socialized with Tommy Mottola?

A. This is the type of questions where people who have nothing to do with this case whatsoever have been brought into the case by Mr. Edwards in an attempt to simply imperil my relationships with social friends and serves as an example of why this case has been brought against Mr. Edwards and his firm, sir.

MR. PIKE: Form as well.

BY MR. SCAROLA:

Q. Well, do you know who brought those persons' names into this lawsuit?

MR. PIKE: Form.

And just to be clear, what Mr. Scarola, I believe, talking about this lawsuit, Epstein versus RRA?

BY MR. SCAROLA:

Q. Yes, sir, that's the lawsuit I'm talking

**From**: Ens, Amanda [redacted]
**Sent**: 11/15/2016 2:44:06 PM
**To**: jeffrey E. [jeevacation@gmail.com]; Richard Kahn [[redacted]
**Subject**: SPX put contingent on higher rates
**Attachments**: image001.jpg; image002.jpg; image003.jpg; image005.png

**Importance**: High

**Navigating post-Trump volatility**

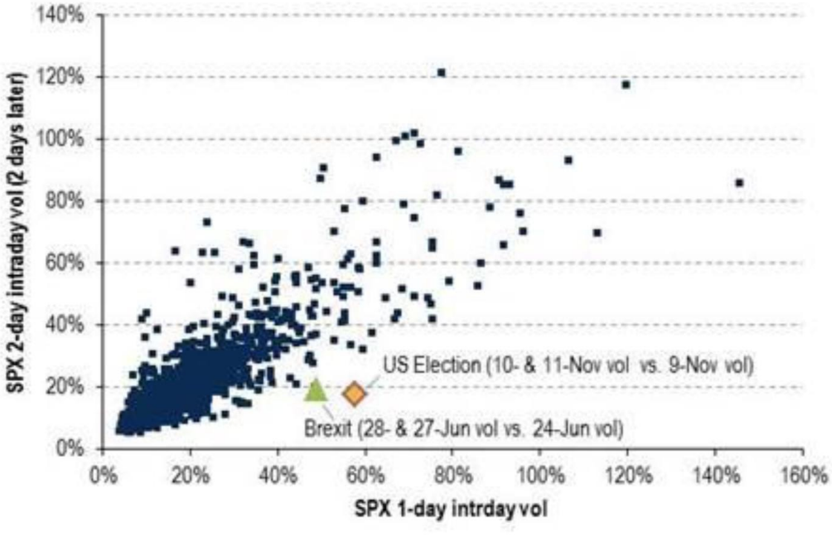
- We are recording unprecedented divergences in falling equity vol with rising rates vol post Trump's win. Intra-day S&P realized vol collapsed from near 60% to below 20% in 2d **[Chart 1]**
- While equities have shown less conviction over what a Trump win means (given strong sector rotation), the bond market has sold off with one of the largest moves in history **[Chart 2 & 3]**
- Stabilizing rates volatility from here is key to markets remaining calm and while equity upside may continue, it is not without higher risks
- We like cheap optionality to hedge long-equities if rates continue to move sharply

**For investors long equities, we look at ways to cheapen protecting from downside risks in the event of further bond market volatility catalysed by Trump policy uncertainty**

- **Buy an SPX Apr-17 95% put conditional on US 10Y CMS > 2.5% at maturity for 0.87%**
  - 70% discount vs. vanilla
  - CMS ref. 2.11%, SPX ref. 2,164.2

*CMS = constant maturity swap*

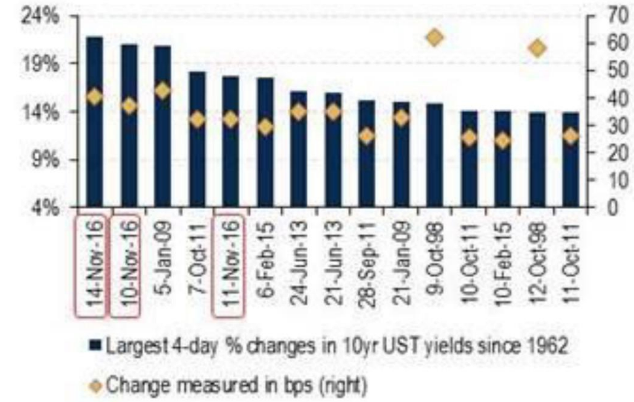
**Chart 1: The response in S&P 500 realized equity volatility to the US election surprise was similar to Brexit but more extreme, as the spike in volatility collapsed at record speed**



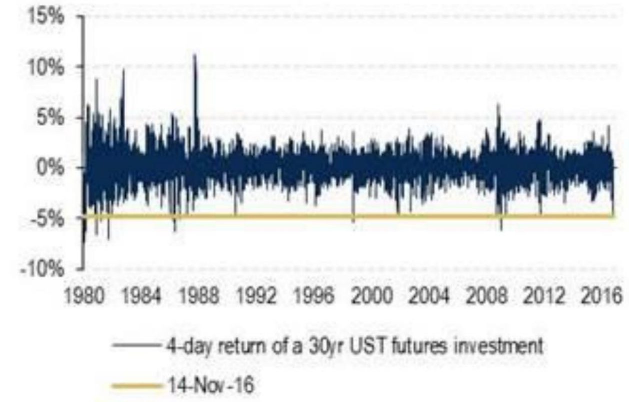
Source: BofA Merrill Lynch Global Research. Based on daily data from June 2004 to current

**Chart 2: Ten-year US Treasury yields see a near record spike after the US election**

**Chart 3: Long Bond futures prices down near record amount (~5%) in the four days since the election**



Source: BofA Merrill Lynch Global Research. Based on daily data since 1962.



Source: BofA Merrill Lynch Global Research

**Amanda Ens**
Director
Bank of America Merrill Lynch
Merrill Lynch, Pierce, Fenner & Smith Incorporated
One Bryant Park, 5th Floor, New York, NY 10036
[redacted]

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**From**: Ens, Amanda [redacted]
**Sent**: 11/17/2016 6:05:47 PM
**To**: jeffrey E. [jeevacation@gmail.com]; Richard Kahn [[redacted]]
**Subject**: Financials: buy XLF Mar17 $22 call with $26 KO for $0.87 with full premium rebate on KO
**Attachments**: image001.png; Future of Financials Conference Takeaways.pdf

**Importance**: High

Our Financials Conference was this week and client attendance was up by 66% from last year. Yes, banks/financials might pull back at some point after this run-up but we would be buyers on any pullbacks and we continue to see further upside from multiple expansion and earnings growth. Our analyst raised her price targets by ~11% across the board. The long term rotation from bonds and div stocks into sectors like financials is only beginning.

Vol is higher on the week; what prices well now:
**Buy the XLF March 2017 $22 call with $26 Knock-Out (continuous) for $0.87, with a full premium rebate if knock-out occurs.**
This prices attractively given flat call skew and if XLF breaches $26 and this knocks out, at least you get your premium back.

Please find our Financials report attached.
Future of Financials conference hosted 90 public and private companies at our Future of Financials conference. We are raising our price objectives across most of our names. Three primary reasons why we think there is upside remaining after the recent rally: 1) an improved outlook on both activity levels and interest rates, driving revenue upside; 2) potentially lower regulatory burden, particularly as new supervisory leadership can come with the new administration; and 3) relatively lighter positioning in US financials vs. other sectors. (Erika Najarian)

---

**From:** Ens, Amanda
**Sent:** Monday, November 14, 2016 12:05 PM
**To:** 'jeffrey E.'; 'Richard Kahn'
**Subject:** RE: Financials trade for Monday

We continue to see buyers of XLF today. Funds are underweight financials in all regions, valuations are reasonable, earnings are improving and financials tend to outperform when bond yields rise.

Vol is higher today – refreshed pricing below.

Buy an XLF 17March2017 call spread:
- Buy the 105% call / sell a 110% call with a 115% at-expiry knock-in
- Total premium: 1.86%

**Global Positioning in Stocks: Nigel Tupper notes the 4000 funds in our "Positioning in Stocks" analysis are more underweight Financials, on average, than any other sector and are underweight this sector in all regions of the world**. If earnings continue to improve and yield rise, which is often the case in an upturn in our Global Wave, then the unloved Financials sector has the potential to continue to outperform.

**Global Quant Panorama: "Bearish on Bonds" stocks (which tend to move in the opposite direction to bond yields) tend to outperform our "Bullish On Bonds" when bond yields rise**. The sectors that tend to perform best as bond yields rise are Energy, Tech, Materials, Banks, and Diversified Financials. Of these sectors, the laggards this year have been Banks and Diversified Financials. With a PE of 15.9x and a PB of 2.0x, Global valuations are reasonable. Also, Risk is near all-time lows in terms of PE in most regions. Now that macro and earnings data have triggered the beginning of a rotation, Value becomes very relevant.

---

**From:** Ens, Amanda
**Sent:** Friday, November 11, 2016 4:04 PM
**To:** 'jeffrey E.'; 'Richard Kahn'
**Subject:** Financials trade for Monday

It's not too late to buy financials as a medium term trade. They've run up a lot this week but we're getting endless calls from generalists asking which banks to buy – there is still more upside to the sector. Banks also provide some offset to your bonds if interest rates continue to move. Our financials sector specialist thinks XLF could have another 20-25% upside given its many levers to the Trump trade: less regulation, higher interest rates/steeper yield curve, higher vol, economic growth, etc. The regional banks are asset sensitive and more of a pure play on a rates move but we view the larger cap banks as having even more upside to the Trump Trade given the above points.

Buy an XLF 17March2017 call spread:

- Buy the 105% call / sell a 110% call with a 115% at-expiry knock-in
- Total premium: 1.75%

All eyes are on Sunday's 60 Minutes interview with Trump. Market is pricing that all regulations will be rolled back (very optimistic). Any hint that this is not true could lead to pullback on Monday.

Note on tech: we're seeing FANG used as a source of funds with the rotation from growth into value. There's also the tax read-through: tech is already relatively tax advantaged @ 22%; Industrials are at 30%, Financials at 29%. Next year, tech could benefit from a repatriation tax holiday but that is viewed as more of a Q1/Q2 trade.

More thoughts on financials:
With respect to the economy, the market is certainly indicating that there will be a large fiscal stimulus which may send US growth higher and that's a good thing for financials for a wide variety of reasons, from employment to wages to loan growth and credit quality (even if somewhat offset by higher rates). It does remain to be seen exactly how much of this expected policy actually gets done, but at the moment, investors are willing to take a certain amount of growth on faith.

So those are positives for financials before we even discuss regulation. The move in the financials since the election would seem to indicate that investors have concluded that nearly every piece of financial regulation will get put into a shredder on day one of the new administration. The incoming administration has fueled that with comments about rolling back pieces (or more) of Dodd-Frank in particular. I can see making the case for that to the American public by saying that banks need less regulation in order to get more capital flowing into the economy to drive growth. Not only does that mean that the E is likely too low (meaning that the P/E is not as high as it seems) but it could help improve ROE's as well which could increase the multiple of that higher E investors are willing to pay. Note that while ROEs could go higher, it's unlikely that they can get back to the peaks...

Regards,
Amanda

Amanda Ens
Director
Bank of America Merrill Lynch
Merrill Lynch, Pierce, Fenner & Smith Incorporated
One Bryant Park, 5th Floor, New York, NY 10036

[redacted]

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2016 Future of Financials Conference

# Management and client bullishness implies further upside

Price Objective Change

Equity | 17 November 2016 Corrected

United States
Banks

**US Financials**
MLPF&S

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See Team Page for Full List of Contributors

## Conference tone bullish into 2017

We recently hosted over 90 public and private companies and 700 attendees at our Future of Financials conference, where investor attendance was up an impressive 66% YoY. The tone from management and investors was uniformly bullish, with more generalists attending than we have seen in previous years.

## Revenue & regulatory upside + positioning = raising POs

We are raising our price objectives across most of our names. Three primary reasons why we think there is upside remaining after the recent rally: 1) an improved outlook on both activity levels and interest rates, driving revenue upside; 2) potentially lower regulatory burden, particularly as new supervisory leadership can come with the new administration; and 3) relatively lighter positioning in US financials vs. other sectors.

## Full house at innovation-focused panels

New this year, we hosted expert panels on the evolution of clearing, fixed income market structure, equity market structure, and payments, and how innovation in blockchain, big data, and robo advisory can change the game. Strong panel attendance suggested high interest in these themes, and polling feedback suggests shareholders want banks to make investment spend in innovation a priority -- so long as it is self funded with savings found elsewhere.

## Banks: Most constructive we've heard in years

We are raising our POs for our banks by c11% (see Table 1 page 63). When asked if the election results changed 2017 outlooks, all banks were more enthusiastic about growth. Echoing sentiment from our panel on regulation and M&A, banks were upbeat on the CCAR process potentially evolving post-election. Our top picks out of the conference: WFC (sentiment over retail sales practices clouding EPS sensitivity to improving macro), C (solid momentum on revenues and capital return), IBKC (moving closer to strategic targets), and EWBC (sentiment post-election appears constructive on regulatory relief).

## Brokers, Alternatives, and Asset Managers

The sentiment around the capital market sector was mostly favorable post the election outcome, given the potential for de-regulation, pro-growth, rising rates, lower tax rates, and increasing activity levels. For the brokers, given mostly favorable 4Q activity trends (more so for trading vs. banking), 1H17 seasonality with easy comps, and potential for de-regulation and lower taxes – we like the outlook, particularly for GS. For the asset managers, despite the move higher post the election on a potential DOL delay/modification and lower tax rates, most expect the DOL to continue in some form and the core trends remain challenging – we remain cautious. For the alternative managers, while we continue to view the structural growth as attractive and a lower corp tax rate could potentially increase the odds of a transition to a C-corp , given the potential for a higher carry tax, rising rates, and de-regulation of banks potentially moderating some of the newer growth areas, we view the outlook as more balanced.

## Specialty / Consumer finance

Companies were generally bullish on the US consumer heading into 2017. AXP presented a fairly upbeat outlook on billings, loan and revenue growth, while cautioning that Discount rate pressures and FX headwinds could impact near-term results. The private tech based lenders were cautiously optimistic that hiccups from earlier this year were behind the sector, while the private payments companies stressed the importance of partnering with incumbent leaders and the need to maintain safety standards.

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**Refer to important disclosures on page 78 to 81. Analyst Certification on page 75. Price Objective Basis/Risk on page 64.** 11687665

Timestamp: 17 November 2016 06:24AM EST

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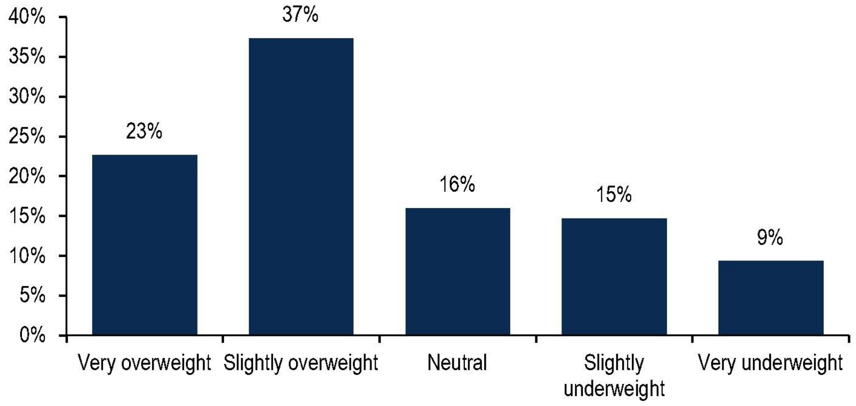
# Conference tone bullish into 2017

We recently hosted over 90 public and private companies and 700 attendees at our Future of Financials conference, where investor attendance was up an impressive 66% YoY. The tone from management and investors was uniformly bullish, with more generalists attending than we've seen in previous years. When asked how they would describe their portfolio positioning in financial stocks, 60% of the investors polled noted that they are either slightly overweight or very overweight the sector (see Chart 1).

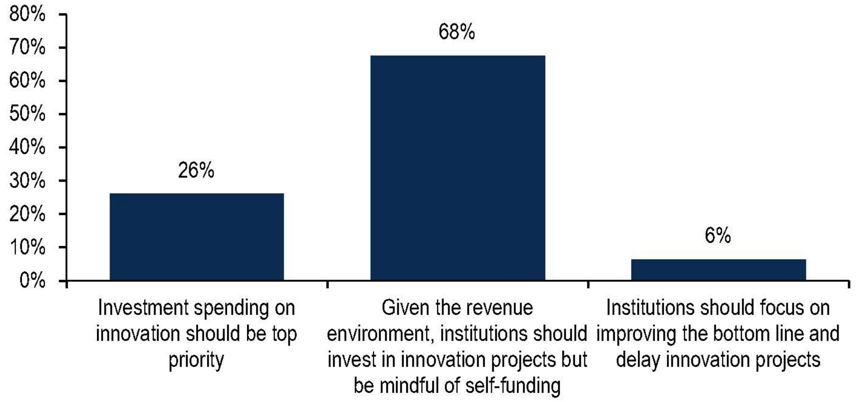
**Chart 1: How would you describe your portfolio positioning in financial stocks, excluding insurance and REITs?**



Source: BofA Merrill Lynch Global Research

New this year, we hosted expert panels on the evolution of clearing, fixed income market structure, equity market structure, and payments, and how innovation in blockchain, big data, and robo advisory can change the game. Strong panel attendance suggested high interest in these themes, and polling feedback suggests shareholders want banks to make investment spend in innovation a priority -- so long as its self funded with savings found elsewhere. 68% of those polled across multiple company presentations believed that institutions should invest in innovation projects but be mindful of self-funding (see Chart 2).

**Chart 2: Chart 2: As a shareholder, what statement most closely aligns with your view on how traditional financial institutions should allocate investment spending on innovation?**

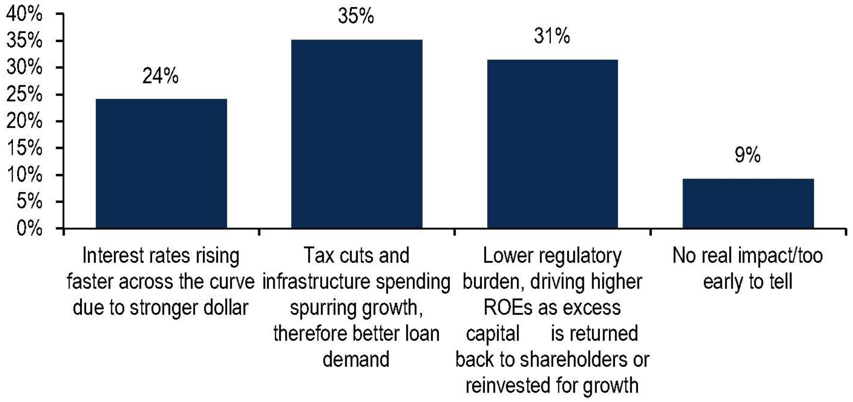


Source: BofA Merrill Lynch Global Research

# Banks Takeaways

With our conference coming a week following a historic US presidential election that helped boost bank stocks by 12%, bank management teams were generally optimistic with regards to the economic outlook heading into 2017. Greater fiscal stimulus that is expected to spur economic growth coupled with potential regulatory relief has helped improve the overall sentiment in the sector. When asked what the biggest impact of the GOP sweep would likely be to bank earnings, 35% noted tax cuts and infrastructure spurring growth as the biggest impact.

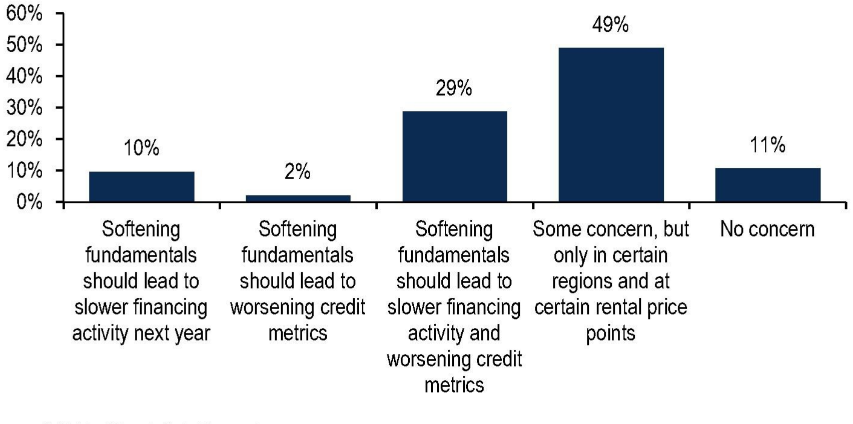
**Chart 3: What do you think is the biggest impact of the GOP sweep to bank earnings?**



Source: BofA Merrill Lynch Global Research

An area that has attracted particular attention among bank investors is around the current landscape of multifamily lending. We polled the audience around their outlook for multifamily lending in 2017 and found that 49% of those polled said there was some concern, but only in certain regions and at certain rental price points. Meanwhile, 29% noted softening fundamentals that should lead to slower financing activity and worsening credit metrics (see Chart 4).

**Chart 4: How do you view fundamentals for multifamily lending in 2017?**



Source: BofA Merrill Lynch Global Research

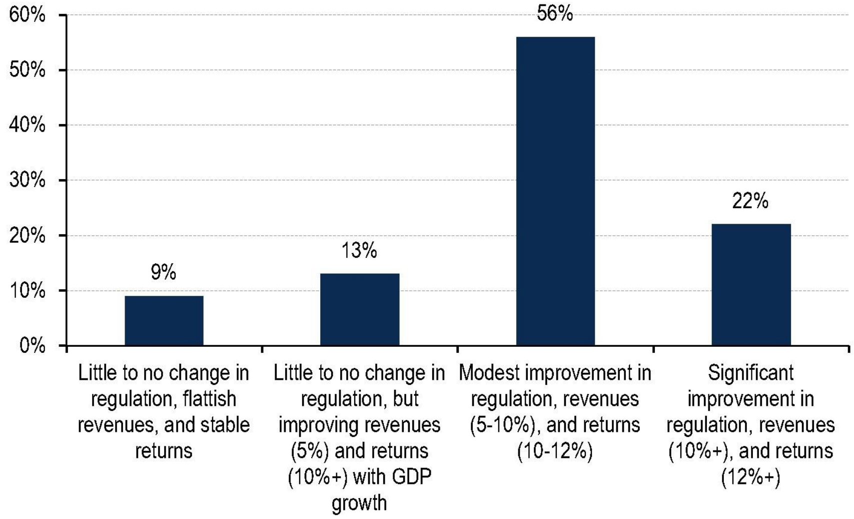
# Brokers Takeaways

In brokers, GS presented, while MS hosted 1-1 meetings with investors. During the conference we polled the audience on several topics including the outlook for capital markets revenues.

### Investors modestly positive on capital markets over next 1-2 years

Given the election outcome, recent rise in rates, potential for higher growth and de-regulation, and lower corporate tax rates, we asked investors about their outlook for capital markets over the next 1-2 years. The majority of investors (78%) were positive about the capital markets sector, with 56% who expect modest improvement in regulation, revenue growth of 5-10%, and returns of 10-12% and 22% who think we could see significant improvement in regulation, revenues growth of 10%+, and returns 12%+.

**Chart 5: Based on the backdrop and the election outcome, what is your outlook for the capital markets over the next 1-2 years**



Source: BofA Merrill Lynch Global Research

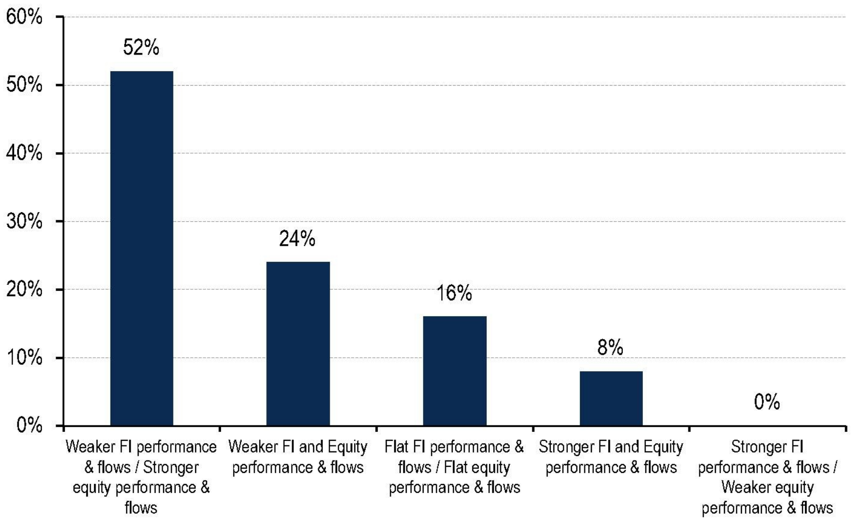
# Asset Manager Takeaways

In asset management, four of the largest public managers, IVZ, EV, LM, and AB either presented or engaged in fireside chats, while several other firms including AMG, APAM, BLK, CNS, OMAM, and VRTS hosted 1-1 meetings with investors. During the conference we polled the audience on several topics including the outlook for DOL (in the panel section), the outlook for fixed income given the recent rise in rates/expected rate hike and outlook, active vs passive market share, M&A, and pricing/fee structures.

### Fixed income outlook more muted

Given the recent rise in rates, a looming rate hike in December, and the potential for a higher growth/inflation outlook for the economy, we asked investors their outlook on fixed income performance and flows vs equities. The majority of investors believe we will see weaker fixed income performance and flows offset by stronger equity performance and flows (52%). Weaker fixed income/equity performance and flows was the second most popular answer at 24% while flat flows and performance came in third at 16%. Only 8% of the audience think we will see stronger fixed income/equity performance and flows, while nobody thinks fixed income will be stronger and equity will be weaker (both flows and performance).

**Chart 6: What is your outlook on fixed income performance and flows versus equities?**

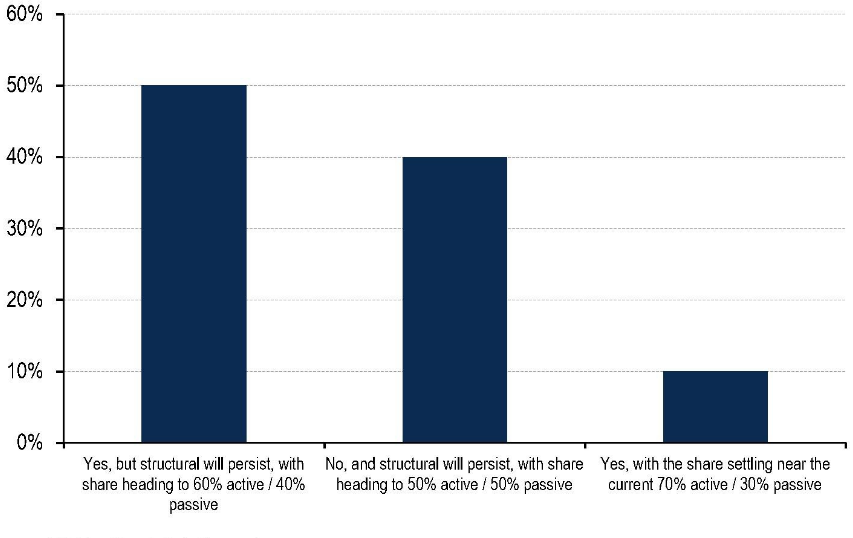


Source: BofA Merrill Lynch Global Research

## Active vs passive outlook – passive to continue to gain share

Given the ongoing shift to passive investing from active, we polled the audience to see where they think the share split between the two styles eventually settles. Currently the share split is roughly 70% active and 30% passive which was the least popular answer (10%) when asked "do you see improving cyclical demand for active management, despite structural headwinds, and if so where do you think active/passive share settles?" Most investors do see improving cyclical demand for active management and think passive will eventually control 40% of the market (50%) while 40% of respondents do not see improving trends for active and that passive will eventually capture 50% of the market.

**Chart 7: Do you see improving demand for active & where do you think active/passive share settles?**

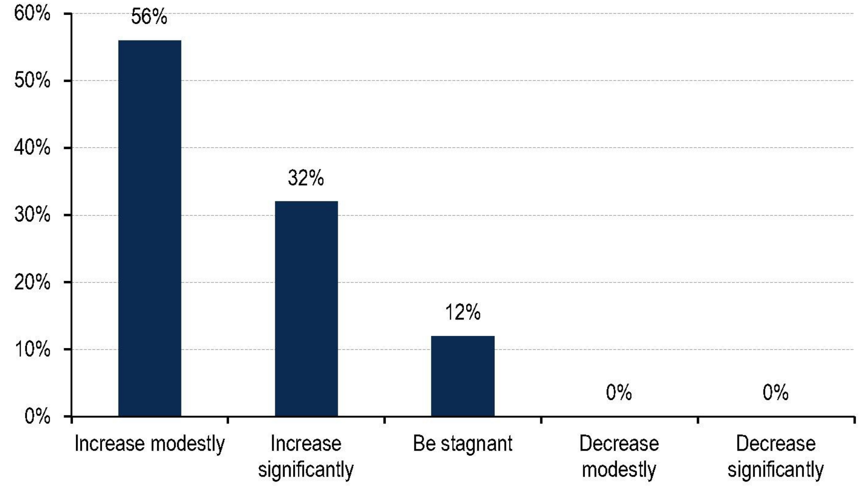


Source: BofA Merrill Lynch Global Research

## M&A activity likely to rise

Given a recent pickup in M&A and pressures within the industry that will likely continue the trend, including rising regulatory costs, some fee pressure, and active outflows, we asked investors their outlook for M&A in the sector. We found that the majority think that the number of deals in the asset management sector will increase modestly in 2017 vs 2016 (56%), 32% see M&A picking up significantly, and 12% see flat activity in 2017. Nobody sees lower M&A activity in 2017 vs 2016.

**Chart 8: How will 2017 asset management M&A activity (# of deals) be versus 2016?**

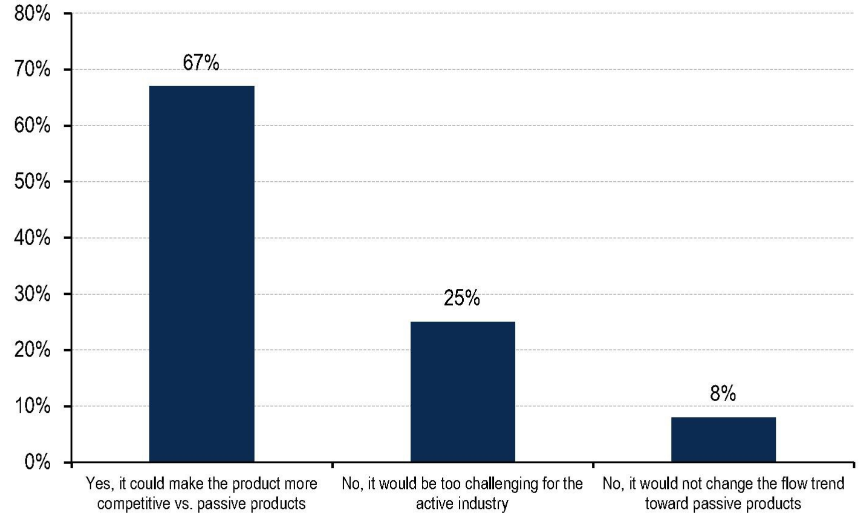


Source: BofA Merrill Lynch Global Research

## Pricing/fee structure in retail seems to have more of a following

Given some underperformance of active managers, some scrutiny around fees, as well as fee pressure from passive, we asked investors if they thought a change in active pricing could make sense, i.e. charge a lower base fee with a variable performance fee that would be earned when alpha is generated. We found a majority of respondents thought it would make sense to change the pricing structure and it could make active more competitive vs passive (67%). The rest of respondents felt it didn't make sense either because it would be too challenging for the active industry or it would not slow the flows into passive.

**Chart 9: Do you think a change in industry active pricing (lower base + perf fee) could make sense?**



Source: BofA Merrill Lynch Global Research

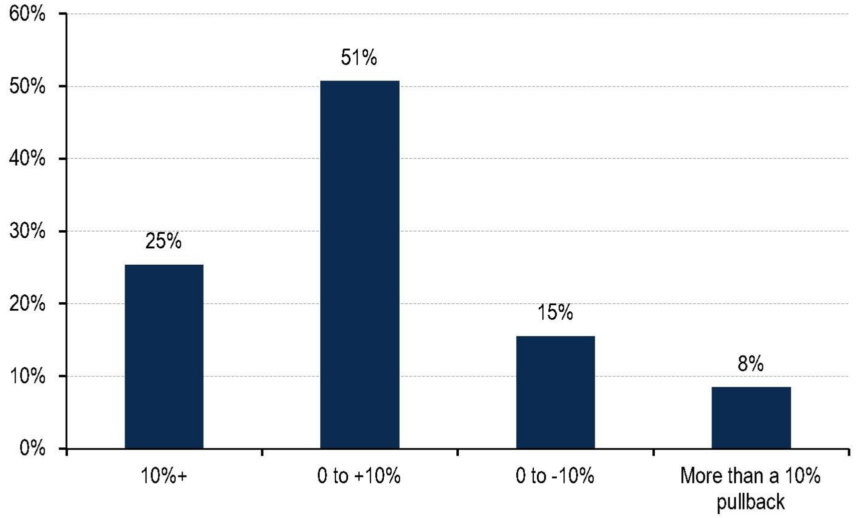
## Alternative Asset Manager Takeaways

Within alternative asset management, four of the public managers, ARES, BX, CG, and KKR presented, while the others did meetings. During the conference we polled the audience on several key topics including the outlook for the equity and real estate markets, potential impacts from the recent election, distribution outlook, and firm structures and business models. Investors were generally bullish on the equity market, potential for fiscal stimulus ahead, and a key focus from investors was on the potential change in taxes following the election, and whether that means reassessing corporate structures for the alts, with a possible change from PTP to C-corp.

### Investors bullish on the equity markets

Our polling results indicate that investors are generally positive on equity market returns over the next year. When asked "What is your expectation for equity market returns over the next year?" the most common response was +0-10% (51%), followed by 10%+ (25%), 0 to -10% (15%), and <-10% (8%).

**Chart 10:** **What is your expectation for equity market returns over the next year?**

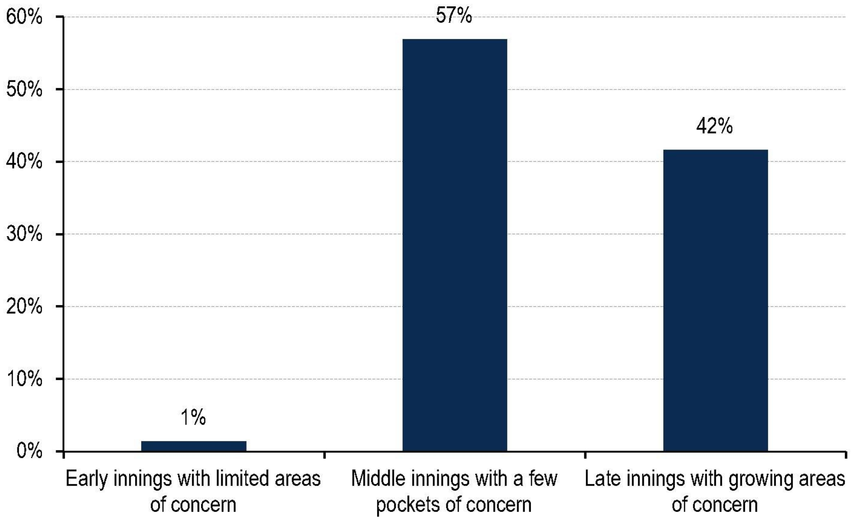


Source: BofA Merrill Lynch Global Research

### Investors are less positive on the real estate market

When asked "Where do you think we are in the overall Real Estate cycle?" most people think that we are in the middle innings with a few pockets of concern (57%), followed closely by later innings with growing areas of concern (42%). Very few people think that we are in the early innings of the real estate cycle (1%).

**Chart 11: Where do you think we are in the overall Real Estate cycle?**

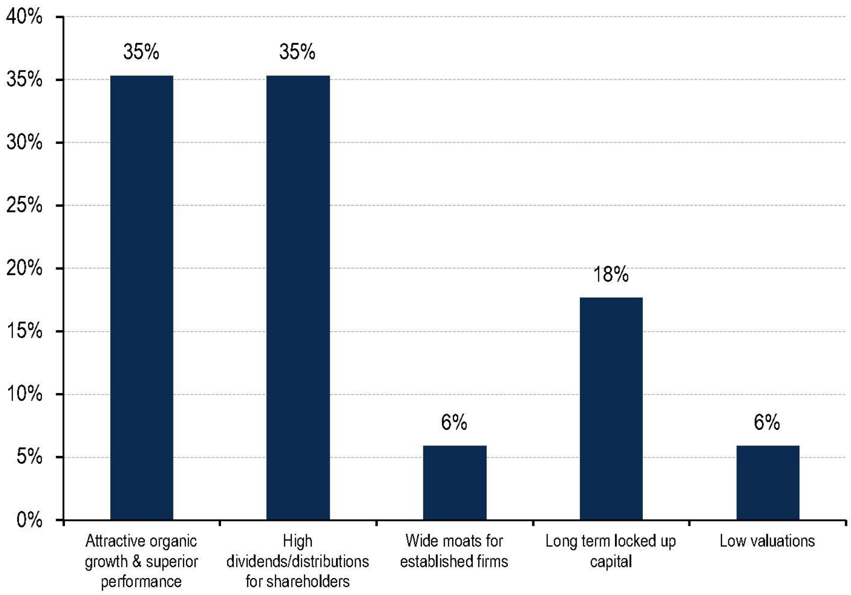


Source: BofA Merrill Lynch Global Research

### Investors like the growth, superior performance, & distributions

When asked "What is the most attractive aspect of investing in an alternative asset manager?" investors like both attractive growth & superior performance and high dividends/distributions (both at 35%). Investors also like the long term locked up capital (18%), while low valuations and wide moats were less important (both at 6%).

**Chart 12: What is the most attractive aspect of investing in an alternative asset manager?**

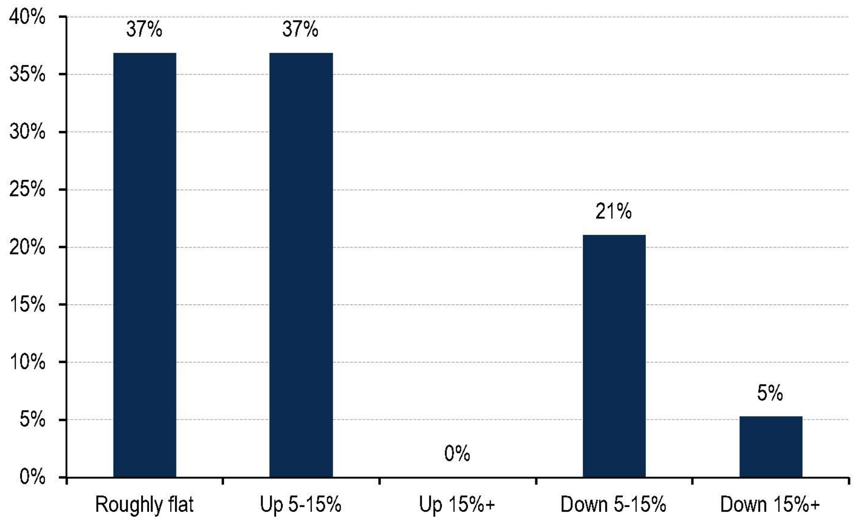


Source: BofA Merrill Lynch Global Research

### Despite moderating distributions of late, most expect flat to higher in '17

When asked "Where do you think distributions for the industry will be in 2017 vs. 2016?" investors expect roughly flat or up 5-15% (both at 37%), followed by down 5-15% (21%). Few investors expect distributions to change more than 15% year-over-year.

**Chart 13: Where do you think distributions for the industry will be in 2017 vs. 2016?**

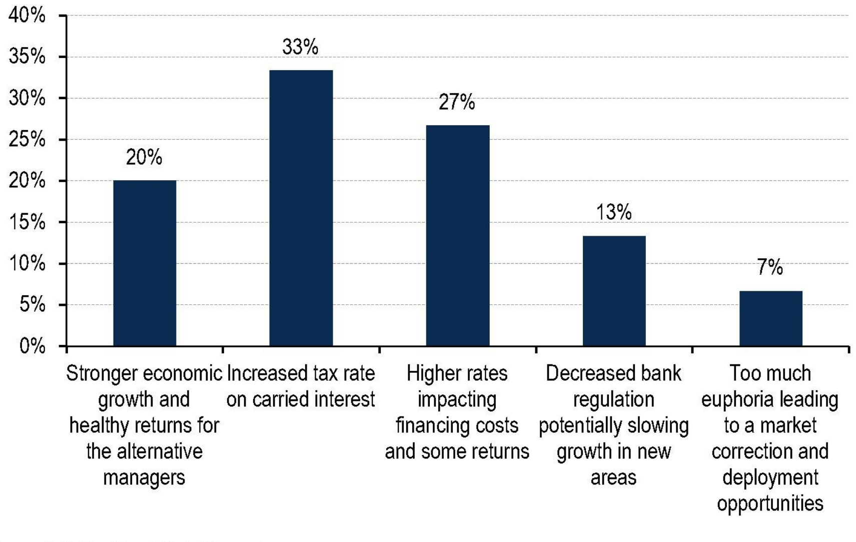


Source: BofA Merrill Lynch Global Research

### Election results could have far reaching impacts for the sector

When asked "What is the most likely impact from the election results on the alternative asset managers?" investors were fairly mixed in their responses, indicating to us that investors expect a number of changes. The most common response was increased tax on carried interest (33%), followed by higher rates impacting financing costs and some returns (27%), then stronger economic growth and healthy returns (20%). Few investors expect a decrease in bank regulation slowing alternative manager growth in new areas (13%) along with too much euphoria leading to a market correction (7%).

**Chart 14: What is the most likely impact from the election results on the alternative asset managers?**



Source: BofA Merrill Lynch Global Research

# Specialty / Consumer finance Takeaways

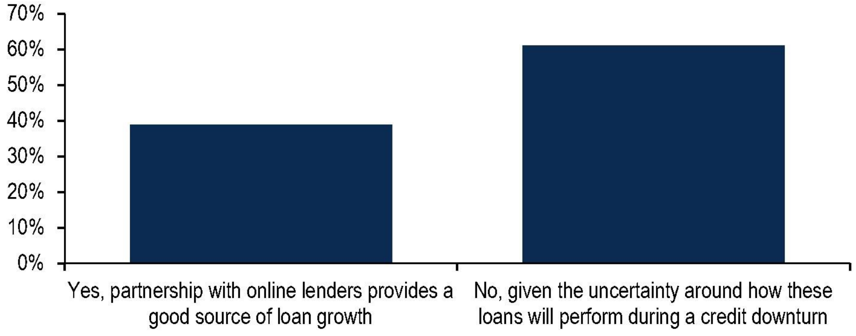
Companies were generally bullish on the US consumer heading into 2017. AXP presented a fairly upbeat outlook on billings, loan and revenue growth, while cautioning that Discount rate pressures and FX headwinds could impact near-term results. The private tech based lenders were cautiously optimistic that hiccups from earlier this year were behind the sector, while the private payments companies stressed the importance of partnering with incumbent leaders and the need to maintain safety standards.

# US Banks Top Takeaways

## Associated Bancorp (ASB) B-3-7, Underperform

- **A strong Midwest market should lead to steady growth**: ASB's CEO Phillip Flynn and CFO Chris Niles highlighted the strong fundamentals of the bank's Midwest footprint with its low unemployment and a strong manufacturing base. While commenting on the potential for relief coming out of DC under the new Trump administration, management noted that shortage of skilled workers was probably the biggest issue impeding businesses in its footprint versus higher taxes or an overly stringent regulatory environment.
- **CRE represents a growth opportunity**: Management was positive on growth prospects within the CRE loan portfolio, which represents 24% of avg loans as of 3Q16. Management is targeting CRE to represent 30-40% of the portfolio in order for consumer, CRE, and commercial to each comprise approximately a third of the loan book. In the near term, executives see opportunities in the CRE space in 2017 as pricing and structure improve benefitting from a pullback by lenders with high CRE concentration.
- **Energy portfolio should begin to stabilize**: While management analyzes the energy book on a credit by credit basis, it noted caution if oil prices fell significantly. However, management noted that the energy book reflects lower energy prices as new energy loans price in lower hydrocarbon pricing vs. the maturing loans. Regarding energy loan growth, management expects muted growth going forward as the benefit from new loans will most likely be offset by continued pay-downs by existing customers.
- **Dec rate hike to surface in 1Q17 margin**: Management expects a Dec rate hike to have little impact on 4Q given that its LIBOR based portfolio would re-price on Jan 1. On the other hand, interest expense is expected to rise as deposits that are linked to benchmark rates re-price higher. Last year, the margin fell 1bp QoQ following the Fed rate hike as deposit costs rose 8bp QoQ. Management noted that 1Q16 saw lower loan renewal rates and compression from cost of funds, but that its cost of funds are in a better position this year, which should help lead to a modest positive impact to the margin in 1Q17 from a Dec rate hike.
- **Fee businesses could get augmented by additional M&A**: Within fees, management views insurance as the best opportunity from non-bank M&A. Recall that ASB completed the acquisition of Ahmann & Martin in 02/15. Management noted that it saw a significant opportunity from providing consulting services around employee benefits to small-to-medium sized businesses. Moreover, any changes to the Affordable Care Act that creates added uncertainty in the market would present an incremental revenue growth opportunity for this business.

**Chart 15: Would you want to see ASB partner with emerging online lenders to augment organic growth?**



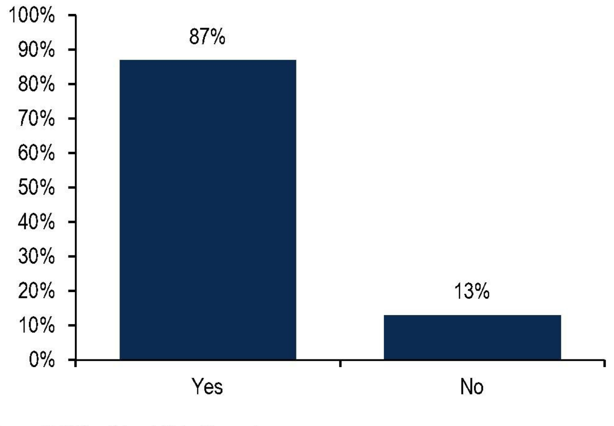
Source: BofA Merrill Lynch Global Research

## BB&T (BBT), B-1-7, Buy

- **Pent up demand in small and middle market corporates**. COO Chris Henson was upbeat with regards to the growth outlook for the US economy post the US elections, particularly from middle market companies that have been extremely cautious around making investments over the last few years. Mr Henson noted that as business confidence rises on back of potentially stronger job growth and lower tax reductions, BBT should see strength across its core banking operations.

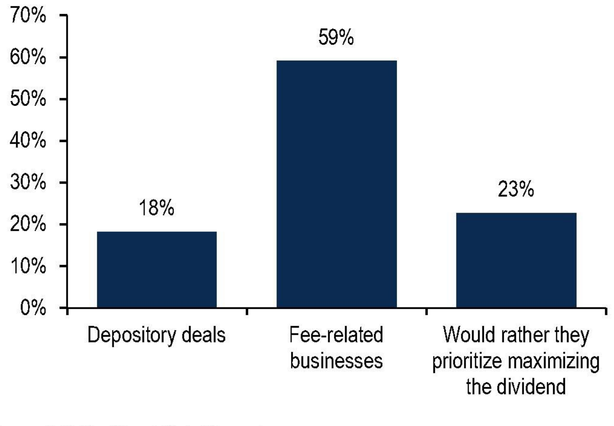
- **Out of M&A in the near term but looking to grow long term**. Management reiterated that it is out of the M&A game for now as it looks to execute on delivering its targeted synergies from recent deals. That said, management expects to eventually engage in M&A deals with BBT having the infrastructure for double its size, noting that scale has become important in the current regulatory landscape. When asked where investors would like BBT to focus on doing deals, 59% noted that it would like management to pursue fee related businesses while 23% would like management to prioritize dividend maximization.

**Chart 16: Do you expect the deal activity in financial services to pick up in 2017?**



Source: BofA Merrill Lynch Global Research

**Chart 17: Once M&A is back on the table, where would you like to see BBT focus on doing deals?**



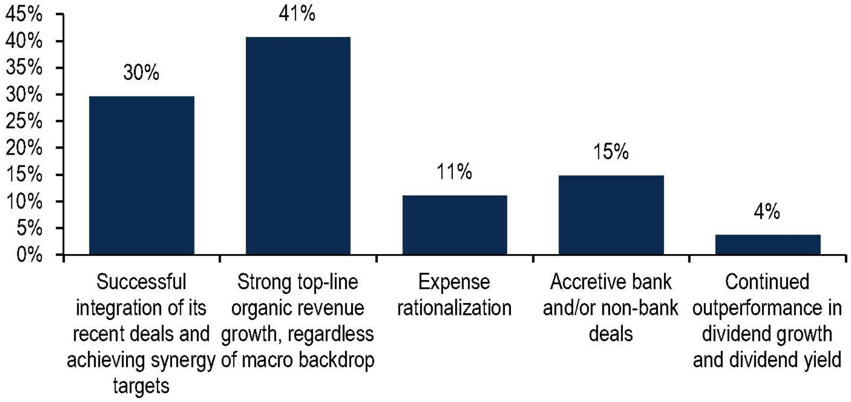
Source: BofA Merrill Lynch Global Research

- **Well positioned from rising rates**. Given the outlook for higher interest rates on both the short and long end of the curve, Mr. Henson noted that while BBT tries to maintain a relatively neutral balance sheet, it would expect to see upside in the margin on back of higher rates. Additionally, higher long rates could also help drive lower pension expense as it reduces the overall discounted pension liability given that BBT remains one of the few large regional banks that still have defined benefit pension plans.

- **Potential for regulatory relief requires BBT to reevaluate risk/compliance spending**. Management noted that 75-80% of its infrastructure budget is based around risk management and regulatory costs. Given the possibility of regulatory relief coming out of the new administration, management noted that it does not want to misallocate its expense spending. As such, management expects to redeploy some of those compliance related costs into revenue and service generation opportunities stemming from any regulatory relief.

- **Branches still have value, but the structure will likely change**. Mr. Henson noted that he still sees value from BBT's branch network but increasing customer usage across its digital channels and with branch transactions down 4%, he expects continued branch consolidation at a pace of more than 2-2.5% over the next couple years. Moreover, management believes that future branches will be likely be smaller in nature and staffed with fewer people that are cross trained with multiple responsibilities. As an example of this, Mr. Henson noted that BBT has combined its teller and relationship banking role into one branch banker role.

**Chart 18: What do you think is the biggest catalyst for BBT shares over the next 12-24 months?**



Source: BofA Merrill Lynch Global Research

## Bank of Hawaii (BOH), B-3-7, Underperform

- **Solid loan growth on back of a strong HI economy**. Chairman, President and CEO Peter Ho, Vice Chairman and CFO Kent Lucien and Senior Executive VP, Controller and Principal Accounting Officer Dean Shigemura were generally upbeat with regards to the operating outlook as we enter 2017. Management guided to achieving low double digit loan growth on the back of a robust Hawaiian economy. While management expects some moderation in C&I growth following a strong 3Q it sounded upbeat around the lending outlook given fairly healthy tourism activity. Management noted that while a de-emphasis on the Pacific Alliance, a priority for the Obama administration, was not a positive development, it remained fairly confident that strong military spending should continue to serve as a tailwind to the Hawaiian economy.

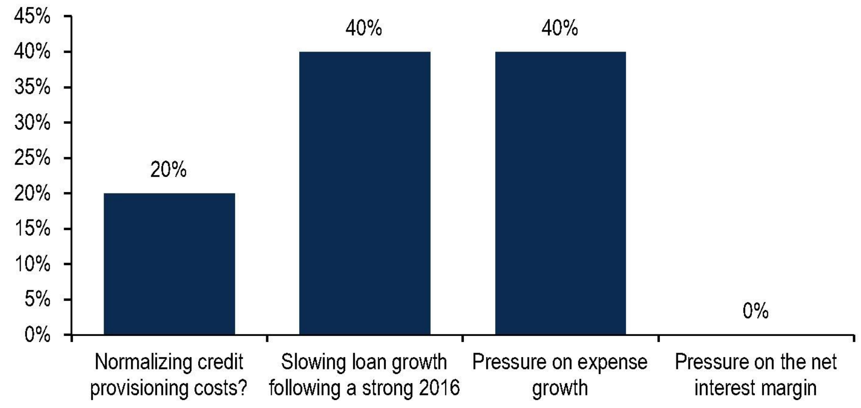
- **Credit outlook remains benign**. Mr. Ho affirmed the credit environment has been benign and believes BOH's strong credit will remain intact in the near future. As loan growth improves, Mr. Ho acknowledged provisions should follow a similar trend, but nothing on the horizon suggests credit will worsen anytime soon. Management acknowledged reserve balances are hard to predict, but believes the greatest likelihood is for the loan loss reserve ratio is to stabilize near current levels.

- **Remains asset sensitive**. Management acknowledged positive trends coming out of a future Trump administration, with one being the positive benefit from higher rates. With a December rate hike likely on the horizon, CFO Kent Lucien reminded investors that a 25 bp rate increase would benefit NII marginally ($1.5mn on an annual basis), but as the 10yr continues to rally, spread income will benefit more significantly. A 100 bp increase contributes to a 5.2% increase in NII on an annual basis.

- **Continued focus on expenses**. Management expects expenses to come in at the upper end of their 3% to 3.5% guidance this year, mainly due to performance based expenses such as stock based comp and commissions. A potential source of expense savings should be reduction in the size of its branches, not necessarily overall count. While management has piloted this new branch design it believes that converting the entire branch network will be a multiyear process.

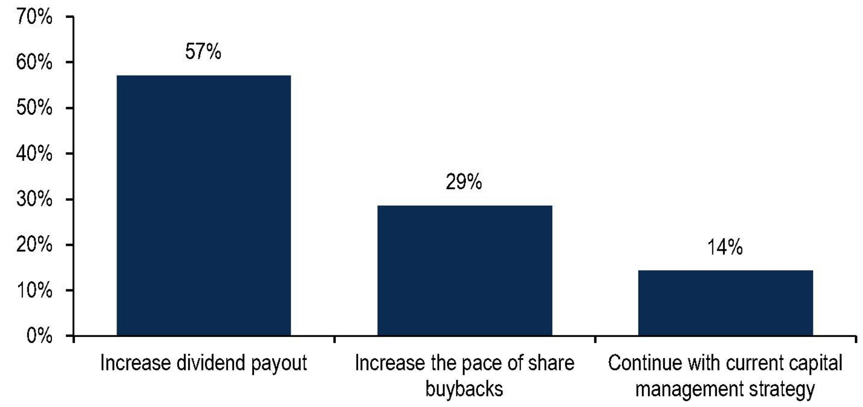
- **Capital deployment remains a priority**. BOH continues to provide great transparency in regards to their capital deployment strategy. Management reiterated their commitment to payout 50% of net income in the form of dividends, with a remaining portion going to buybacks. BOH has completed over $400mn in buybacks over the past five years and noted that they are very comfortable with this strategy, given its proven track record.

**Chart 19: What do you see as the biggest headwind to BOH's 2017 EPS growth outlook?**



Source: BofA Merrill Lynch Global Research

Chart 20: With regard to capital deployment, what would you like management to focus on?

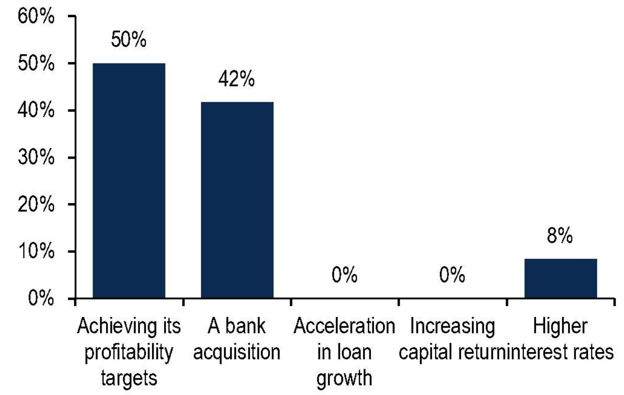


Source: BofA Merrill Lynch Global Research

## Capital Bank Financial (CBF), C-1-7, Buy

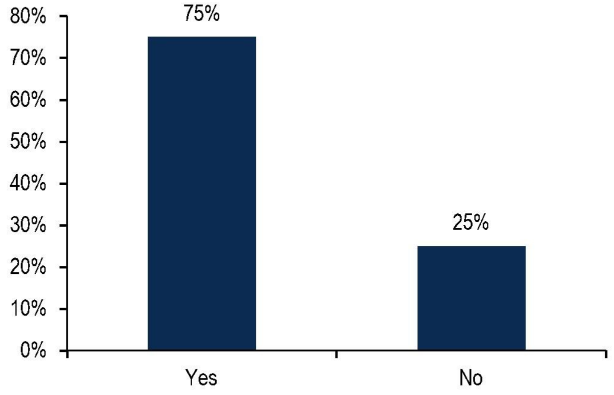
- **Investor expectations for CBF to achieve its ROA target increased YoY**. Of the audience polled, 75% believe CBF to achieve its 1.1% ROA by YE17. This compares to 67% of the audience polled last year. CEO Gene Taylor highlighted both the organic growth opportunities and limited expense growth for the bank to achieve its ROA target. Although the bank is expected to cross $10bn in assets next year, management sounded confident that there would be little incremental expense growth as the bank has already built out leverageable systems.

Chart 21: What do you consider as the single most important catalyst for CBF shares in 2017?



Source: BofA Merrill Lynch Global Research

Chart 22: Do you think CBF will achieve its 1.1% core ROA target by YE17?

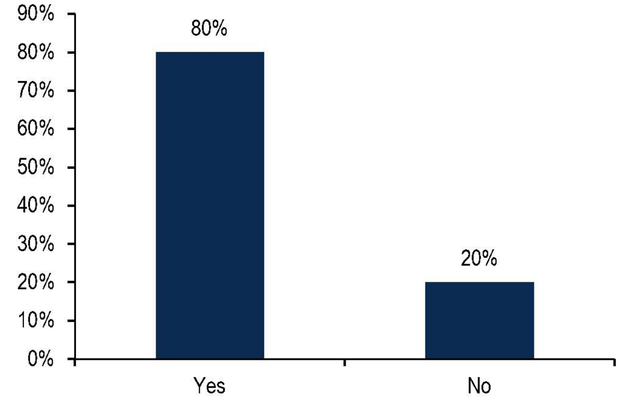


Source: BofA Merrill Lynch Global Research

- **Expectations around COB merger remain intact**. CBF reiterated their expectations to fully recognize the 39% of cost savings related to the CommunityOne merger by 2017 year-end. (Systems conversion is slated for mid-1Q17, with initial savings expected to be realized starting 2Q17). During their presentation, management introduced the source of these savings (new disclosure), with the majority expected to come from executive management compensation (23%) and back-office functions (33%).

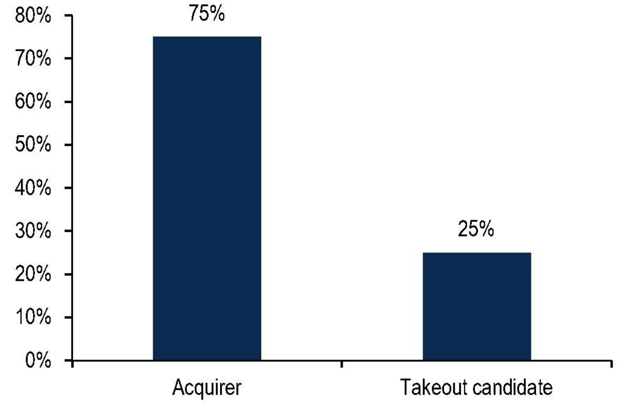
- **Capital deployment remains a key catalyst for the stock**. Management agreed with the 80% of the audience polled that believe the pace of M&A activity will pick YoY (slightly better than last year's forward expectations). While management noted that it remains focused on integrating COB, and acknowledged that it remains active in terms of M&A discussions, CBF continues to evaluate all opportunities that promise the best returns for shareholders. Interestingly, investor sentiment around CBF's positioning within the M&A market shifted, 75% of respondents believing the pro forma institution is better positioned to act as an acquirer. (Note last year, 55% of respondents believed CBF would be a takeout candidate in the medium term.

**Chart 23: Do you think the pace of M&A activity will pick-up significantly in 2017 vs. 2016?**



Source: BofA Merrill Lynch Global Research

**Chart 24: Does the acquisition of CommunityOne better position CBF as an acquirer or a takeout candidate?**



Source: BofA Merrill Lynch Global Research

- **CBF expected to prudently grow in CRE as bank is underpenetrated**. CFO Chris Marshall acknowledged that there exist signs of frothiness within the multi-family lending segment. That said, he noted there is still room to grow as peers pull back in response to regulatory oversight (3Q: 161% vs. 300% threshold). That said, management remains selective and has implemented a 25-30% concentration limit (3Q: 22%).

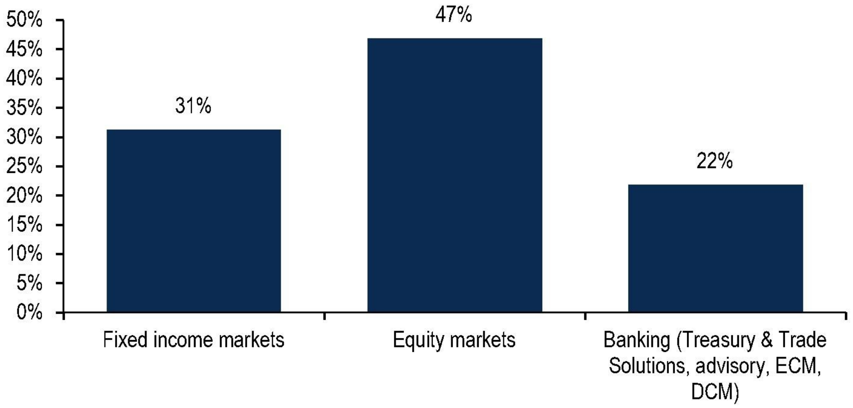
## Citigroup (C), B-1-7, Buy

- **Markets revenue up YoY so far, down from robust 3Q**. President and CEO of ICG Jamie Forese and CFO John Gerspach noted that at this current point in time, they expect a seasonal sequential decline in Markets revenue in 4Q, but revenues should be up YoY on back of stronger activity levels post the election. Moreover, banking activity is looking consistent with prior quarters.

- **DTA impact from lower tax rates**. Given the possibility of lower tax rates under the new administration, there have been many questions around what a potential tax cut could mean on C's ability to re-capture some of its DTA. Management noted that the impact will depend on 1) the ultimate tax rate, 2) either a worldwide or territorial regime, and 3) the time it takes to reflect the new changes. A federal tax cut would directly impact the $21B timing related differences component of its DTA balance. Assuming a 20% decline in the federal tax rate, this would imply a $4B charge to the P&L (20% X $21B). That said, C has $7B of timing difference DTA that is not includable in its regulatory capital. As a result, that $4B impact would not have an impact on its CET1. In the event that there is a territorial regime, there is an element in its foreign subs equal to ~30% of the $21B that would lose its value at an accelerated rate. Assuming a 25% tax rate and territorial regime, management noted that there would be roughly $12B worth of DTA that would see some valuation adjustment and drive a $4B of reduction in its regulatory capital.

- **Aiming to improve market share in Equities**. Management noted that C currently ranks around 8-9th in the Equities business and while it is not looking to achieve a top 3 market share, it would like to improve to around 5-6th. Management noted that the revenue gap to reaching that ranking is ~$1B. While not all of that is expected to fall to the bottom line, management noted that achieving this would be accretive to its overall margin. We note that when asked where is C's biggest opportunity to take global market share within ICG, 47% of those polled said the biggest opportunity lied within the Equities business.

**Chart 25: Where do you think C's biggest opportunity is to take global market share within its IGC business?**

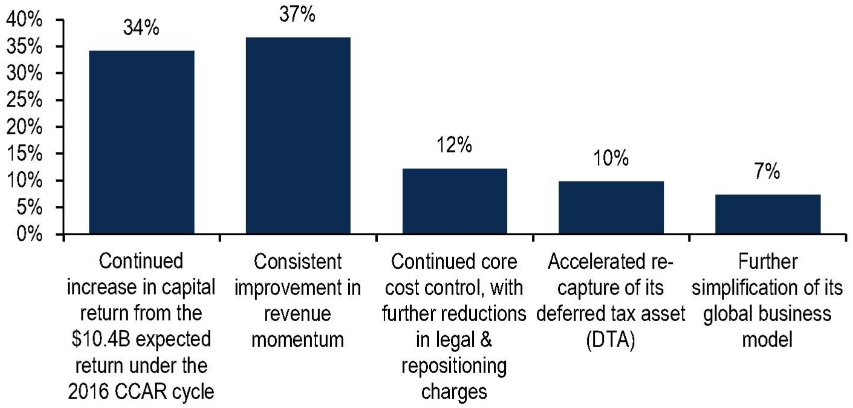


Source: BofA Merrill Lynch Global Research

- **Lower regulatory constraints versus peers present opportunity**. Given C's strong regulatory position such as its above peer SLR ratio, management noted that it can compete in balance sheet intensive businesses such as Rates while more constrained peers are forced to pull back. In terms of its ability to take market share away from European banks, management noted that European banks are more likely to cede share in Fixed Income and less so within Equity and Banking.

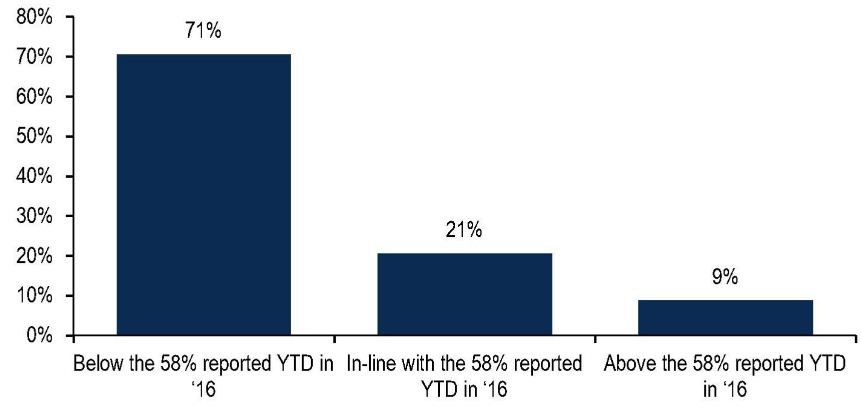
- **Longer term goal of 14% ROTCE in ICG**. Management believes that under a more normalized rate environment and through its work towards improving efficiencies across ICG on back of its infrastructure refinements, ICG should be able to achieve a 14% ROTCE vs ~12% today.

**Chart 26: Despite material progress, C shares still trade below TBV. What will drive shares to re-rate closer to TBV?**



Source: BofA Merrill Lynch Global Research

**Chart 27: Where do you see Citicorp's efficiency ratio settling in 2017?**



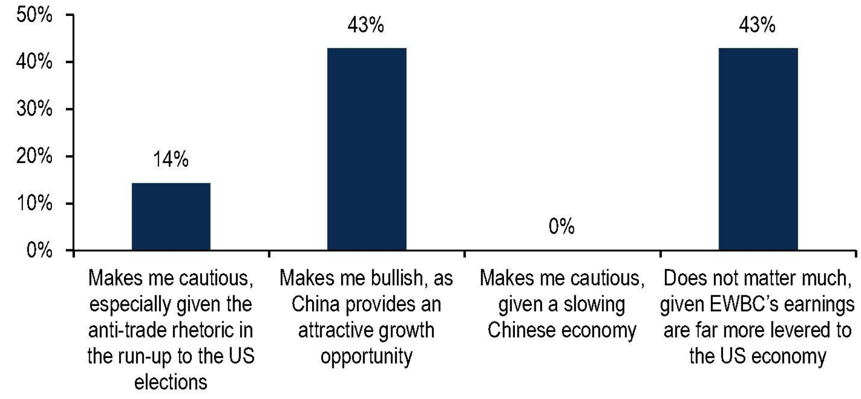
Source: BofA Merrill Lynch Global Research

## East West Bancorp (EWBC), B-1-7, Buy

- **Sentiment post-election appears constructive on regulatory relief**. CEO Dominick Ng noted that the industry could be positively impacted should aspects of Dodd-Frank, which have been both challenging and taken up significant internal resources (even for banks below the $50bn SIFI asset threshold), be reformed. Specifically, Mr. Ng believes the pace of expense growth could likely slow. That said, he noted the possibility to shift some of these expense savings to revenue generating areas.

- **EWBC sees limited impact from anti trade rhetoric during the run-up to the US elections**. Although recent political rhetoric on China has had a negative bias, Mr. Ng believes these views are primarily focused on the traditional-manufacturing Chinese industries vs. the country's current strategic emphasis on tech and consumer/retail. Despite having only a 4% exposure to Greater China (includes Hong Kong), EWBC benefits from its unique positioning, both as industry experts in parallel industries and as a relationship bank. Investor sentiment agreed; with 86% of the audience polled have a bullish view of EWBC's China exposure.

**Chart 28: How does China exposure impact your investment thesis on EWBC?**



Source: BofA Merrill Lynch Global Research

- **EWBC reiterated its strategy to sell CRE loans in favor of portfolio diversification**. Although Mr. Ng expressed caution on the overall commercial real estate (CRE) market, he noted seeing little tangible signs of concern within EWBC's footprint. That said, EWBC could continue to look to sell CRE loans in order to keep the loan portfolio balanced and thereby limit the reliance on any one segment. Note: CRE concentration was 261% of risk-based capital as of 3Q vs. 265% in 2Q.

- **EWBC to maintain capital for organic growth opportunities**. As of 3Q, EWBC's CET1 ratio was 10.9%. While EWBC isn't opposed to using excess capital for an acquisition (depending on the market landscape), Mr. Ng prefers to use capital to support organic growth opportunities and the dividend (1.75% div yield). With respect to share repurchase, EWBC seemed less enthusiastic to buy back stock at current valuation levels (2.3x TBV).

## First Hawaiian (FHB), C-2-7, Neutral

- **Positive outlook around the Hawaiian economy**. Chairman and CEO Robert Harrison and CFO/Treasurer Michael Ching were optimistic with regards to the outlook for the Hawaiian economy, particularly around tourism trends. While the recent strength of the dollar could impact the inflow of foreign tourists (with Japan and Canada the key foreign markets for HI) to the island, management noted that the potential for an increases in domestic tourism could help offset the pressure from any slowdown due to a stronger USD.

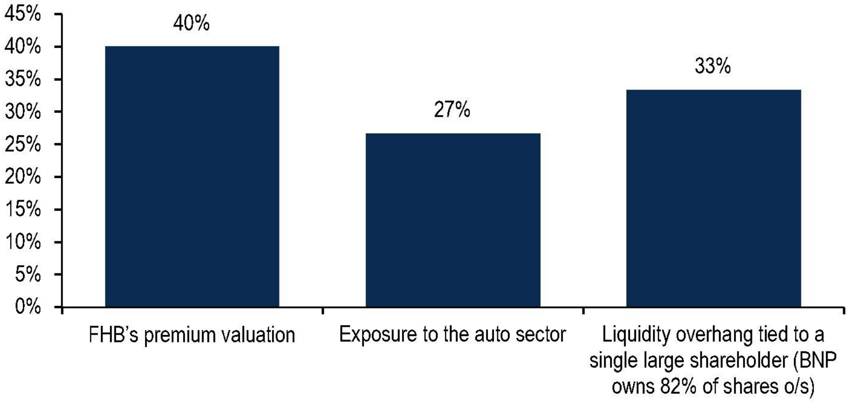
- **Positioned well for higher rates**. With regards to its outlook on the impact of potentially higher interest rates, management noted that it remains asset sensitive with 60% of its loan portfolio floating rate. On the funding side FHB expects the deposit beta to remain low given the competitive dynamics in the Hawaii landscape. Management anticipates that another 25bp increase in the Fed Funds rate in December could have a similar impact on the NIM (+6bp) as it experienced following the previous rate hike in Dec '15.

- **Cash deployment to securities completed**. Management noted that it has completed the liquidity actions that it planned to take from deploying excess cash into its securities portfolio and the full impact of this should be visible in 4Q results. Note the securities portfolio duration is 3.3yrs at the end of 3Q16. Management noted that it prefers to keep $400-500mn at the Fed in cash liquidity.

- **Continued focus on maintaining dividend payout**. In terms of capital management, management reiterated that it would like to maintain a healthy dividend payout. Given that additional capital return from buybacks are limited due to the Fed's CCAR process (which FHB is subject to given that it is part of a larger holding company owned by BNP), management intends to increase its capital payout to shareholders (via higher dividend and buybacks) over time.

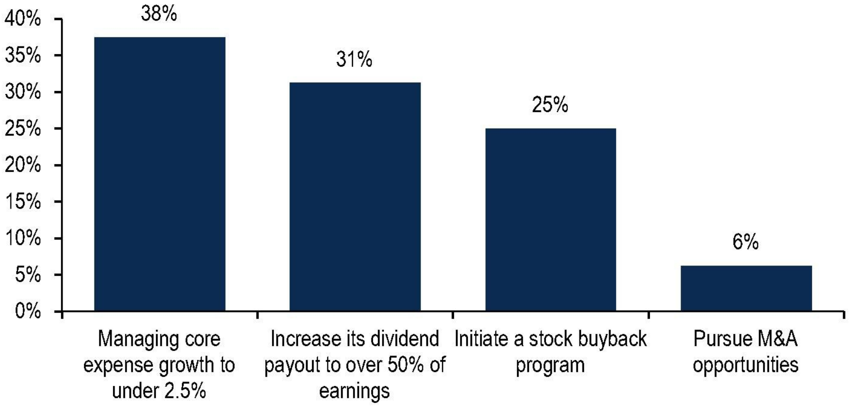
**Expenses to stay relatively elevated in near term**. During the audience poll, when asked about what management should prioritize in 2017, 38% of the investors polled noted that they would like management to manage core expense growth while 31% would like management to increase the dividend payout to over 50% of earnings. Management noted that the efficiency ratio would likely trend around 50%, modestly higher than the 48.5% it reported in 3Q as it incurs additional public company costs ($14.5 – 17mn of expenses), but over time should move back below in the mid-to-high 40s.

**Chart 29: What is the single biggest factor that would prevent you from buying or increasing exposure to FHB?**



Source: BofA Merrill Lynch Global Research

**Chart 30: What would you like management to prioritize in 2017?**



Source: BofA Merrill Lynch Global Research

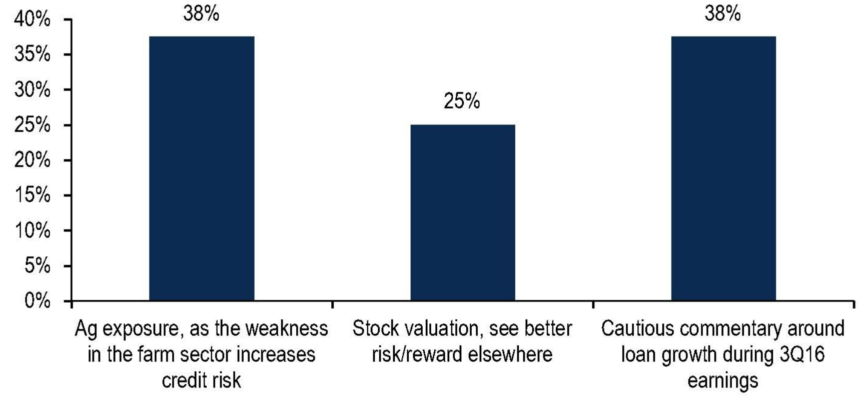
## Great Western Bancorp (GWB), B-1-7, Buy

- **GWB sees three potential benefits following the US presidential election results**. Chief Financial Officer Peter Chapman sounded optimistic that clarity around the corporate tax policy could act as a much needed impetus to spur lending activity. Secondly, current prospects for Head of Ag under the new administration are viewed as a net positive for the industry. Lastly, while GWB has already begun to see regulatory costs increase now that they've exceeded $10bn in assets, management could see a potential for compliance costs to rationalize should the new administration reform the regulatory framework.

- **Management's revised growth rate outlook was meant to level set expectations**. During its 3Q16 earnings call, management tempered loan growth expectations slightly to "mid-single" digits for FY16 vs. "mid-to-high" single digits. Interestingly, this was the number one reason among investors polled as to why they were hesitant to increase their exposure to GWB. That said, management sounded optimistic about the growth opportunities within its AZ and CO markets. While growth in C&I should see continued momentum, management noted increased competition around pricing as banks tapped out of the CRE markets look to make C&I loans. On CRE, GWB sees itself as a potential beneficiary from pullback by some of its competitors. While management was generally constructive of the

CRE market across its footprint it noted some caution around the health of the market in Denver.

**Chart 31: What is the primary reason keeping you from buying/increasing exposure in GWB?**



Source: BofA Merrill Lynch Global Research

- **Ag portfolio offers unique opportunity, but management believes fears overstated**. As of 3Q16, ag loans represented 25% of the total portfolio (36% in grains, 50% in proteins and 14% in other). Tied for first at 38% as a reason why investors are hesitant to increase exposure to GWB resonates from the bank's ag exposure. While lower grain prices may constrain cash flow on those loans near-term, Mr. Chapman noted that this is offset by stronger yields. Management also highlighted the relatively low losses observed historically in this portfolio given the significant experience within GWB's management ranks in lending to this segment, including in the 1980s the last stress period for the farm sector. That said, management remains committed to this business as it is key to GWB's footprint.

- **Management reiterated its commitment to actively manage excess capital**. Although management is comfortable with its current capital levels (3Q: 9.5% tier 1 leverage), Mr. Chapman noted the bank's preference is to put its excess capital to work. Management reminded investors of the criteria it looks for in a potential target. While they continue to look for opportunities within their footprint, specifically IA and KS, they remain disciplined. In addition to its recently authorized repurchase program of $100mn, management believes a total payout ratio of 30% is maintainable.

## IBERIABANK (IBKC), B-1-7, Buy

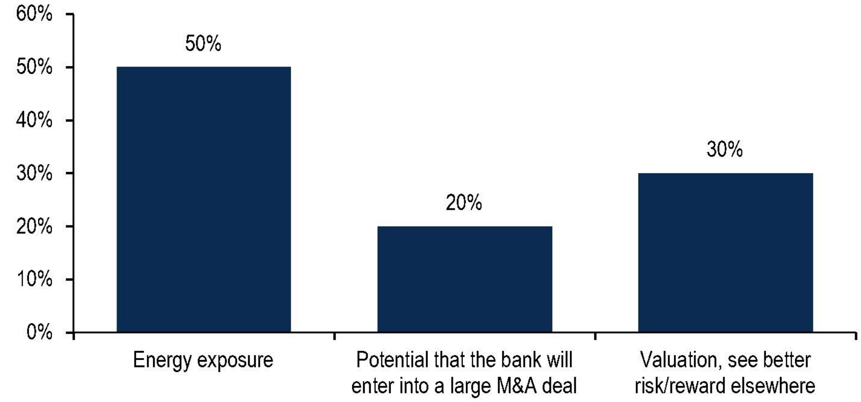
- **Focused on moving closer to its strategic targets**: President and CEO Daryl Byrd and Senior Vice President John Davis were upbeat around the outlook for economic growth across IBKC's 10 state footprint as the bank looks out into 2017. While management has thus far not provided any specific guidance for 2017, we expect this to be forthcoming in conjunction with the announcement of 4Q16 results in January. Moreover, management sounded cautiously optimistic that pro-growth policies (if implemented) coupled with some relief on the regulatory front under the new Trump administration could lead to a much stronger growth outlook

- **Energy credit costs should trend lower**: Management noted the overall energy portfolio should continue to trend lower but is expected to moderate as run-off in stressed energy loans (and loan payoffs) are partially offset by new energy loans, with management looking to selectively lend again in the sector. Moreover, with energy criticized loans peaking in 1Q16, management expects the criticized loans to trend lower barring any major declines in oil prices.

- **Ready for M&A**: While a depressed valuation (due to the volatility surrounding oil prices) had kept IBKC out of M&A, given the recovery in valuation it noted its desire to pursue potential deals across its footprint. Management also noted that while the recent move in equity markets had pushed up valuations for potential publicly traded sellers, it sees significant opportunity among the privately held banks that may look for a merger partner to gain liquidity and monetize the improving sentiment surrounding bank stocks. From a size standpoint, management did not rule out larger deals. This is not surprising given that IBKC has not shied away from pursuing relatively large sized deals previously.

- **Rate increase to boost the margin**: In terms of its interest rate sensitivity, management noted that it retains an asset sensitive balance sheet, with a potential 25 basis point move in the Fed Funds rate expected to add 5c to quarterly EPS. That said, management recognized that slower mortgage activity due to rising long rates could temper the revenue outlook for its mortgage business.

**Chart 32: What is the biggest factor that prevents you from owning or adding exposure to IBKC?**

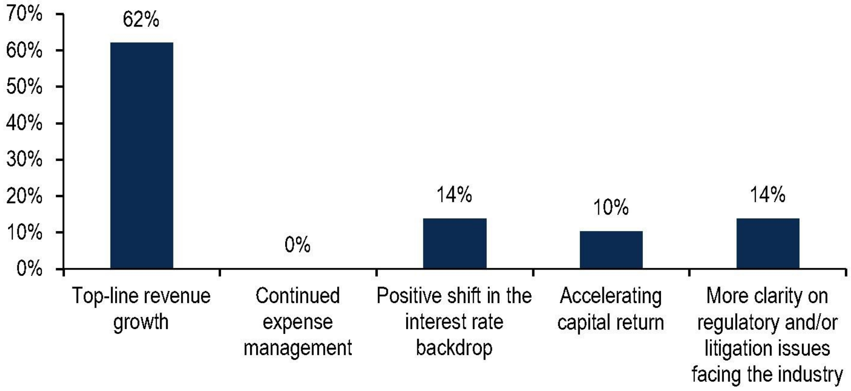


Source: BofA Merrill Lynch Global Research

## JPMorgan Chase & Co (JPM), B-1-7, Buy

- **Pent up demand from macro uncertainty offers growth opportunity**. Doug Pento, CEO of JPM's Commercial Bank, sounded optimistic around the opportunity within commercial banking from the pent-up demand in the market that was constrained by the uncertainty surrounding the election. In addition, he highlighted the increased opportunity generated by JPM's expansion into 44 new markets since 2008, specifically in LA. This coincides with 62% of the audience polled who believe top-line revenue growth is most important for the stock to continue its outperformance.

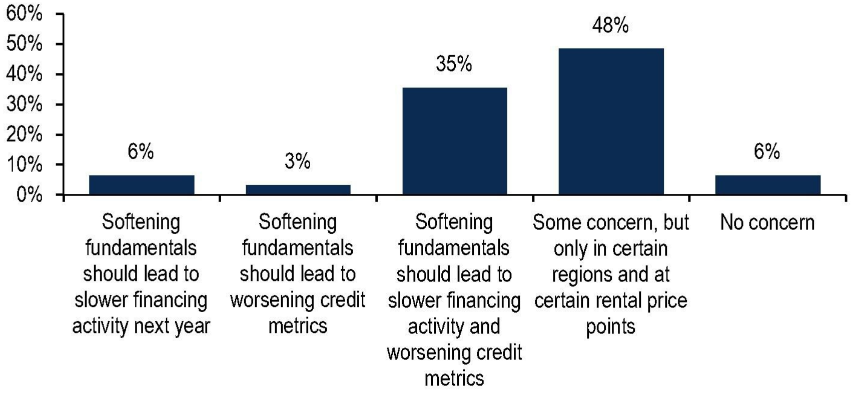
**Chart 33: As a current or prospective JPM shareholder, what do you think is most important for the stock to continue its outperformance next year?**



Source: BofA Merrill Lynch Global Research

- **JPM cautious on CRE; however, overall credit remains benign**. Forty-eight (48%) percent of the audience polled believe concerns around multi-family fundamentals will be concentrated in certain regions. Although credit for the overall bank remains benign, Mr. Petno believes we are in the later stages of the real estate cycle and expressed a cautious tone on the high-end condo/construction market. That said, JPM is primarily exposed to more stable, multi-family credit (i.e. rent-controlled apartments) where the average loan to value is 60%.

**Chart 34: How do you view fundamentals for multifamily lending in 2017?**



Source: BofA Merrill Lynch Global Research

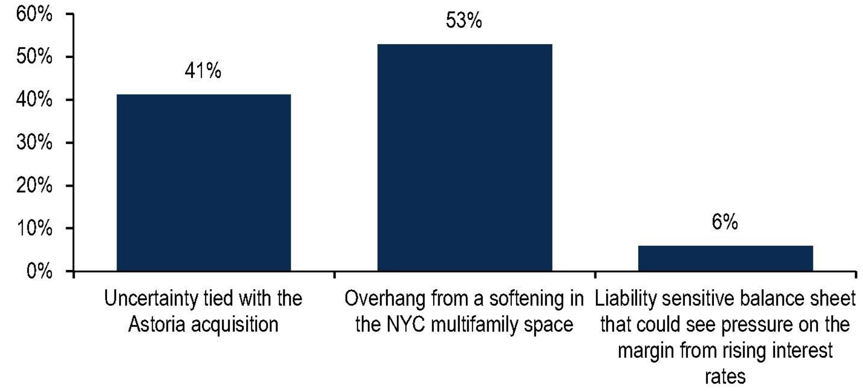
- **With tech/digital intellectual property at fingertips, capabilities within CB are on horizon**. Mr. Pento expressed his intention to leverage the technology that the Investment Bank has and the investments that the Consumer Bank has to build the right digital and mobile platforms for the bank's commercial clients. He noted that they have the largest investment and digital budgets ever this year and expect it to increase next year.

## New York Community Bancorp (NYCB) C-1-8, Buy

- **Completion of Astoria acquisition best outcome for both banks:** Following the recent announcement of a regulatory delay in getting approval for the Astoria acquisition, NYCB CEO Joe Ficalora and CFO Thomas Cangemi reiterated that closing the Astoria deal represents the best outcome for both banks. Beyond that management was limited in its ability to talk about what particular factors led to the delay and refrained from providing a specific timeline to close the deal assuming that the BoDs at both banks agree to extend the deal deadline beyond

YE16. Management was quite clear that the bank was unlikely to cross the $50bn SIFI asset threshold on an organic basis until the SIFI threshold is moved higher, which would take an act of Congress.

Chart 35: What is the biggest risk that prevents you from owning/increasing exposure to NYCB?



Source: BofA Merrill Lynch Global Research

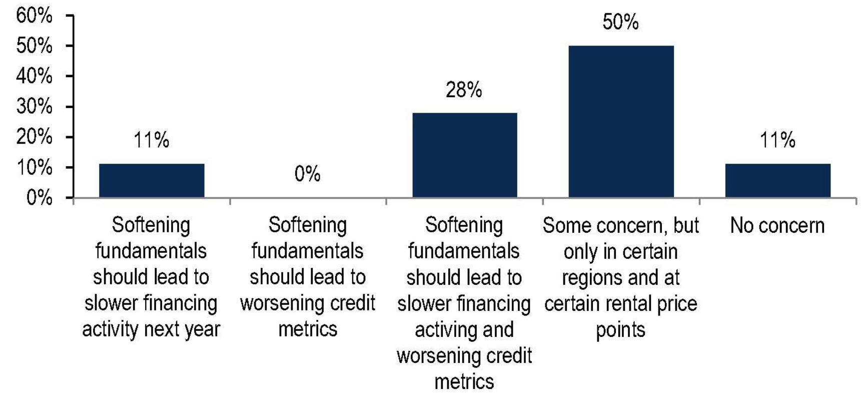
- **Regulatory relief would be meaningful for NYCB:** Given that the prolonged timeline for gaining regulatory approval for the Astoria acquisition can be attributed to the pro-forma entity crossing over the $50bn SIFI asset threshold, management noted the significant relief it would receive from legislative action that would push this threshold higher. This would not only make the regulatory burden following the closing of the Astoria acquisition more manageable, but would also allow NYCB to look at additional M&A opportunities once it integrates Astoria. Moreover, any potential relief on LCR compliance would also be welcomed by management as it would remove a source of significant pressure on its net interest margin.

- **Higher rates could accelerate refinance activity:** While investors tend to view rising rates as a headwind to refinance activity, management noted that it had already seen a pick-up in applications as borrowers look to lock-in rates based on the fear that rates could be significant higher 6-12 months out. As a result, this could provide a near term boost to the margin from higher prepay income.

- **Steepening yield curve leading to rising lending rates:** Management noted that it had recently increased its multifamily coupon by 0.375% to 3.50% on the improved interest rate environment. NYCB was not alone in this rate hike as SBNY commented that it recently moved up lending rates for its 5-year and 7-year fixed multi-family loans. Notably, the increased lending rates are above the current book yield of NYCB's loan book implying the potential to offset some of the potential pressure from higher funding costs following the December rate hike.

- **NYCB able to withstand downturn in multifamily market:** Management was also upbeat on its ability to withstand a downturn in the multifamily market given its history through multiple credit cycles of outperforming on credit metrics. While it is debatable how close we are to the next downturn, we believe that the defensibility of NYCB's balance sheet is a key strength of the bank and should create significant organic and M&A driven growth opportunities during the next downturn. That said, management noted that it was very likely that potential pro-growth measures taken by the incoming Trump administration could push out any downturn, as in the short run the economy would witness stronger growth.

Chart 36: How do you view fundamentals for multifamily lending in 2017?

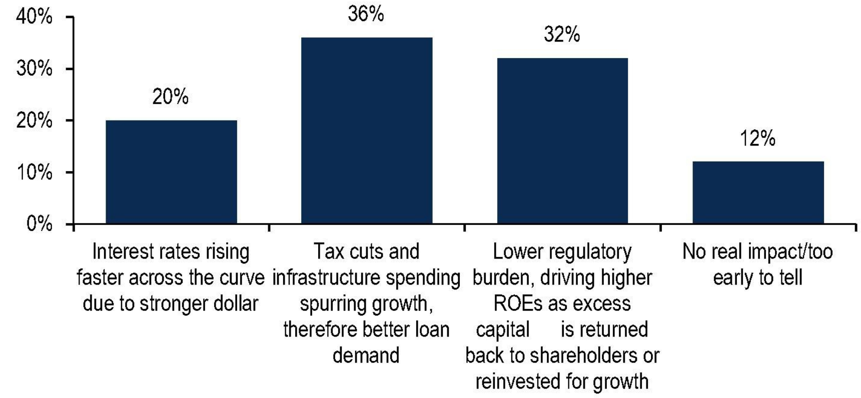


Source: BofA Merrill Lynch Global Research

## Regions Financial (RF), B-2-7, Neutral

- **Regions harnessing consumer to drive growth**: Scott Peters, Senior EVP and Consumer Services Group Head, Logan Pichel, Consumer Lending Group Head, and Darren Smith, Treasurer, noted that Regions is utilizing its retail platform to drive growth. Management highlighted strength in mortgage, card, and online lending as avenues for growth. Importantly, management felt the US election has provided tailwinds for Regions revenue growth prospects heading into 2017. Combined with a better rate back drop, management sounded upbeat on its outlook.

Chart 37: What do you think is the biggest impact of the GOP sweep to bank earnings?

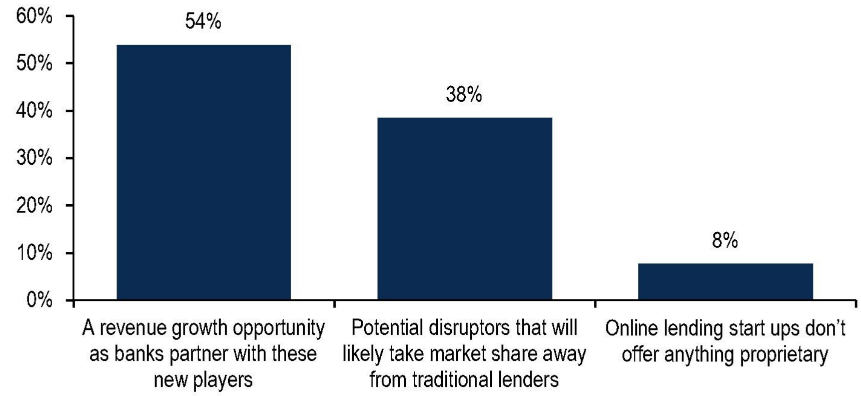


Source: BofA Merrill Lynch Global Research

- **Multiple channels to drive loan growth:** Management illustrated several avenues for loan growth. Within mortgage, Regions has 450 originators that generate 95% of its $6bn in annual originations. Management is seeking to increase its originations from home loan direct and telephone banking to 15-20% of total originations (currently 5% of originations) given the greater profitability from these channels. Card growth has also been strong with active credit card growth at 12%

YoY and card penetration reaching 20%. Importantly, management is utilizing online lenders like GreenSky, a nationwide point-of-sale home improvement business, to drive growth as balances having increased to $660mn (1% of loans) from its 2014 inception. Of note, management expects challenged growth in auto, though its exclusive lending to the prime space limits the credit downside.

Chart 38: How do you view the impact of new online lending startups on the banking industry?



Source: BofA Merrill Lynch Global Research

- **Possible tailwind from regulation**: Management at Regions noted that while it is still uncertain how the regulatory landscape will evolve, a more favorable environment could allow Regions to free up investments tied to regulatory initiatives and risk management. Management would likely direct these funds to product development and customer initiatives.

- **Asset sensitive, particularly to the long end**: Regions' executives noted its highly asset sensitive balance sheet given the more favorable rate back drop since 3Q. According to management, a 100bp parallel shift in the yield curve produces ~$175mn in incremental spread revenue (11% of '17e operating income) with two-thirds of the impact coming from the middle to long end of the curve. Part of the benefit of a rate rise is derived from lower premium amortization on its investment portfolio from higher rates. Given the steepening of the yield curve, we expect Regions to benefit more than peers.

- **Branch network continuing to evolve:** Management intends to increase the productivity of its branches through several measures. Firstly, it is designing smaller, more visible locations to drive traffic. Management is also implementing the universal banker model, which has already resulted in 500 fewer tellers, in order to increase revenues at branches. Management noted that it expects to consolidate at the higher end of its expected 100-150 branch reductions, having already identified 90 branches for closure.

## Signature Bank (SBNY), B-1-9, Buy

- **Focused on $4-6bn asset growth target**: President & CEO Joe DePaolo & EVP Eric Howell sounded fairly optimistic about the outlook for balance sheet growth with $4bn in loan growth and $4.6bn in deposit growth YTD as of 9/30 vs. management target for $4-6bn in annual asset growth. Management reiterated that the fundamentals of the multifamily business (which is focused on the low-to-moderate income segment) have not changed despite the headlines surrounding a softening in the multifamily space.

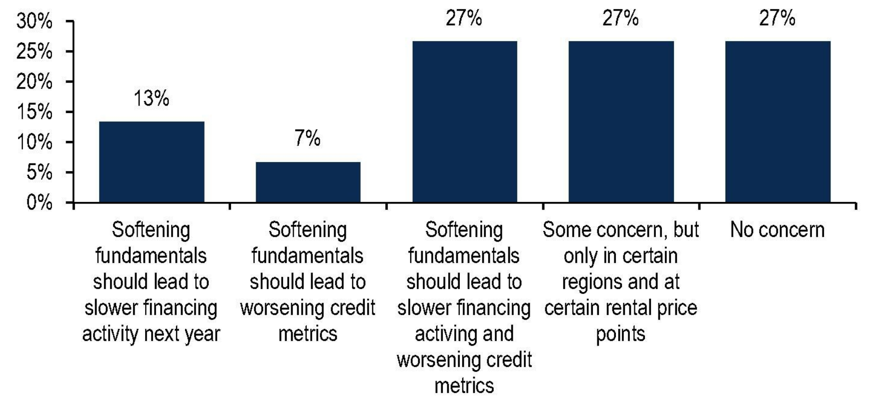
- **Hiring bankers, even as team hiring on pause**: On the hiring front, management noted that although it does not expect to hire teams heading into year-end, it is continuing to hire individual bankers (recently hired 4 to 5 lenders). Hiring will be focused on C&I and specialty finance lenders. Management does not expect to hire additional CRE lenders.

- **Easing in regulatory environment could provide some relief on expense growth**: With regard to the potential for some easing of regulatory burden on the banks (important here as SBNY approaches the $50bn asset threshold) under the incoming Trump administration management noted that it could see some abatement in expense growth associated with compliance costs. However, management is running the business based on the current regulatory framework and will look for more tangible signs before it makes any changes to investment decision, especially as it relates to the compliance infrastructure.

- **Lending rates reflecting the steepening in the yield curve**: SBNY noted that it had raised rates on its 5-year fixed by 0.125% to 3.5%- 3.625% and 7-year fixed up by 0.25% to 4.0%-4.125% following the steepening in the yield curve over the last week. We note that this was echoed by SBNY's NY rival NYCB which also noted increasing rates on lending products in the aftermath of the move higher in interest rates. We believe higher rates associated with new loans and better reinvestment opportunities in the securities portfolio should serve as a tailwind to the margin even as funding costs will likely trend higher, especially as the Fed raises interest rates by 25bp in December.

- **Regulatory scrutiny on multifamily lending manageable**: With regard to the heightened regulatory concerns surrounding CRE multifamily lending (multifamily is 50% of SBNY’s loan book), management noted that it has implemented a new loan system likely coming on line in 3Q17 which should allow the bank to analyze the loan portfolio at a more granular level. Management is also underwriting fewer interest only multifamily loans in response to the regulatory concerns. Although, it noted that it was not losing any significant business due to this as competitors had also pulled back and borrower ability (in most instances) to service a non-interest only loan.

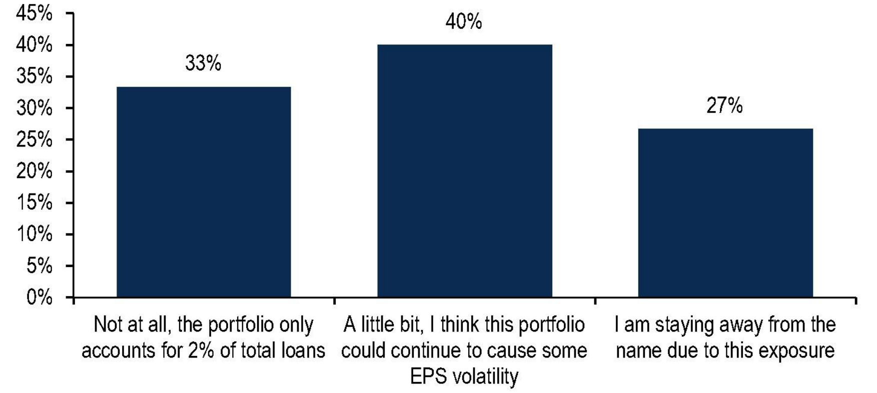
Chart 39: How do you view fundamentals for multifamily lending in 2017?



Source: BofA Merrill Lynch Global Research

- **Confident past most of taxi medallion issues**: Management expressed confidence that it has taken care of most of the issues on its Chicago taxi medallion loan book and is seeing stabilization of its New York book with New York fleets near 100% utilization. Management also expects the $20mn +/- in quarterly provisioning outlook to absorb the impact from any incremental provisioning associated with the medallion portfolio.

Chart 40: How much does SBNY's taxi medallion exposure impact your decision to invest in the stock?



Source: BofA Merrill Lynch Global Research

## Synovus Financial (SNV), C-2-7, Neutral

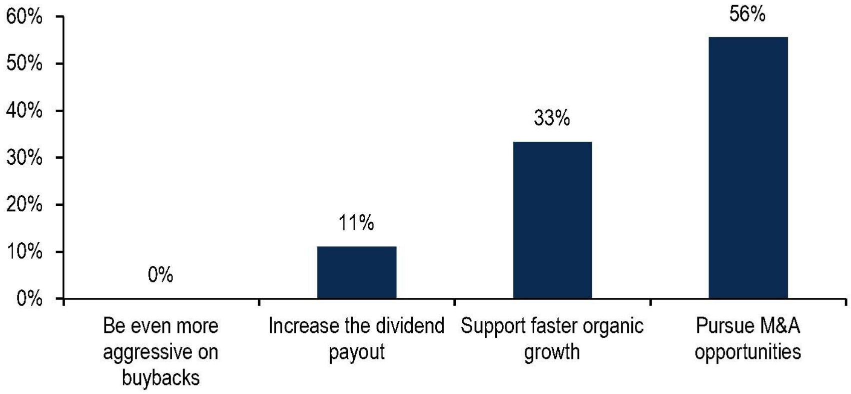
- **SNV hesitant to react too quickly to post-election excitement**. Chairman and CEO Kessel Stelling noted that despite the very positive reaction seen in bank stocks from the results of the US elections, it was too soon to say the real impact on growth outlook. That said, he believes that a more encouraging business climate (i.e. increased infrastructure spending) as well as some regulatory relief (i.e. raising the $50bn asset threshold) could be a benefit for SNV and the overall industry.

- **SNV could see a benefit at both ends of a steepening yield curve**. As of 3Q16, 50% of SNV's total loan portfolio was fixed rate (includes variable rate loans with floors), implying a benefit to spread income from a rise in both the short- and long-end of the yield curve. With the futures market now pricing in a 94% probability the Fed raises rates in Dec., CFO Kevin Blair believes the net interest margin could expand by 6bp in from a 25bp rate hike (vs. +9bp last year). That said, the benefit is dependent on what happens with deposit costs. SNV's current sensitivity analysis assumes a 50-60% deposit beta.

- **SNV keenly focused on credit**. Chief Credit Officer Kevin Howard noted expectations for net charge-offs to naturally tick up as recoveries become less of a benefit and some seasoning in the loan portfolio. Recall during its earnings call, management lowered its FY16 net charge-off range to 10-20bp (3Q: 12bp). Mr. Howard noted that he would not be surprised if NCOs increased to 15-20bp in 2017 (cons: 12bp) and stay near those levels for the near future.

- **Management reiterated its intent to continue to deploy excess capital**. Although SNV will disclose a more detailed capital plan in January, management expects to continue deploying excess capital via buybacks, M&A and/or organic growth. When asked how management should utilize its excess capital, 56% of the audience polled prefers SNV pursue M&A opportunities (vs. 8% last year). In reaction, Mr. Stelling noted continued interest in strategic acquisitions (like Entaire) but hesitant to execute a large, dilutive transaction. While DTA accretion could allow for continued share repurchase, management may choose to be a bit more opportunistic around buybacks given the run up in the stock.

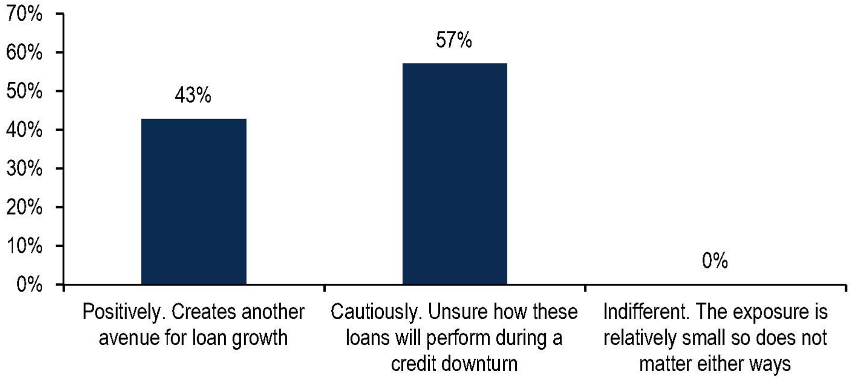
**Chart 41: What would you like to see management do with its excess capital?**



Source: BofA Merrill Lynch Global Research

- **Management is positive but cautious on online lending partnerships**. Investors were also relatively split in how they view SNV's partnerships with online lenders SoFi and GreenSky. The majority (57%) remains cautious on how these loans will perform during a credit cycle. Mr. Stelling agreed; however, he believes these partnerships represent the right vehicle to help the bank grow its retail portfolio to 20-25% of loans (in line with its strategy to transition away from CRE) and achieve its 1.0% ROA target (3Q: 0.88%). Although we note that SNV is being deliberate around growing this book and is targeting these loans to grow to approximately 2-3% of total loans.

**Chart 42: How do you view SNV's partnerships with online lenders (SoFi/GreenSky)?**

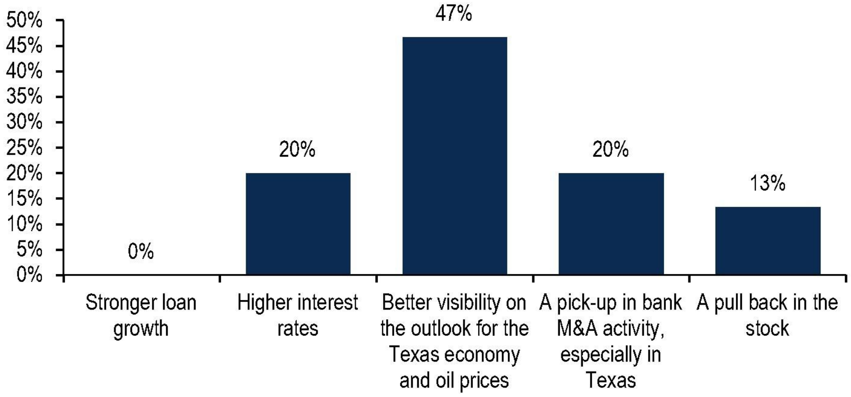


Source: BofA Merrill Lynch Global Research

## Texas Capital Bancshares (TCBI) C-2-9, Neutral

- **Upbeat on business outlook**: TCBI's President & CEO Keith Cargill, CFO & COO Peter Bartholow, CAO Julie Anderson, and CLO Vince Ackerson were relatively upbeat about TCBI's business outlook. Management expects its mortgage businesses, particularly MCA to be to be a source of strength even if overall mortgage volumes were to slow down due to the rise in interest rates. Management expects to mitigate the negative impact from lower mortgage activity by picking up greater wallet share of existing clients and given the option to bring back to the balance sheet loan participations. Regarding expenses, despite expectations for an uptick in the efficiency ratio over the next couple of quarters management expects to beat its 2016 efficiency guidance (low-to-mid 50s).

Chart 43: What would drive you to buy or increase your positioning in TCBI?

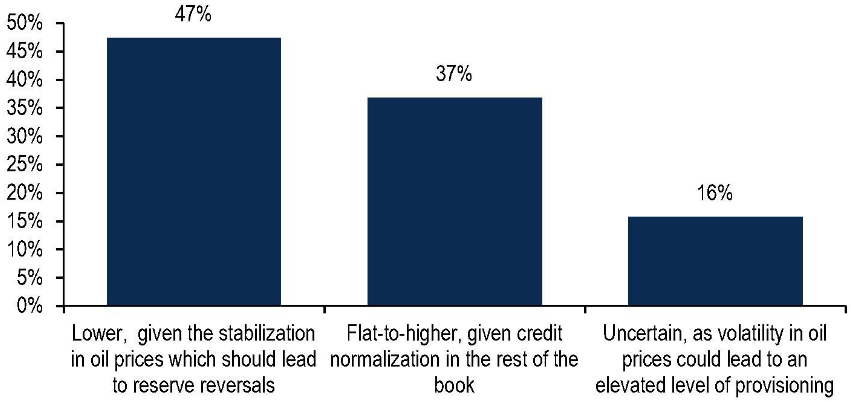


Source: BofA Merrill Lynch Global Research

- **Credit provisioning likely to trend lower in 2017**: During an investor poll, nearly half of investors expect credit provisions to be lower in 2017 vs. 2016, based on expectations for stabilization in oil prices. Management expressed comfort that reserve levels should be adequate even if oil prices were to decline to the mid-to-high $30s in the near term (vs. spot WTI prices of $45/bbl today). However, management would need to consider increasing its reserve level if oil falls to the high $20s. Conversely, if oil stabilizes in the high $50s-low $60 levels, management could consider reserve releases. Management stressed on looking at the forward curve when assessing the impact from oil prices on credit costs vs. the spot rate.

With regard to growth in the energy book management expects balances to stay relatively flattish as new growth is offset by pay downs and deleveraging.

Chart 44: Where do you see TCBI's provisioning in 2017 relative to 2016?



Source: BofA Merrill Lynch Global Research

- **Mortgage growth to continue despite a downshift in activity**: Management was optimistic on the outlook for both its mortgage businesses – warehouse lending and MCA businesses Management expects both these portfolios in aggregate to total 28-33% of average total loan portfolio. Management tried to debunk the perception that the MCA business was cannibalizing its warehouse lending business and noted that two business were complimentary in nature. Moreover, while initially the vast majority of the MCA customers were the ones that TCBI had a relationship on the warehouse lending side, it noted that that number had fallen to 50% and is likely to move lower over the coming quarters. TCBI has a dedicated sales force prospecting for the MCA business.

- **Next rate hike to give a bigger boost to EPS**: Management noted its high asset sensitivity with most of their loans tied to LIBOR and prime and its expectations for an increase in funding costs to remain relatively tempered. With strong demand deposit growth during the year and a $1bn reduction in loans with floors (from $3.1bn to $2bn), TCBI has become more asset sensitive relative to last year, when a rate hike led to a $4mn increase in spread income. Management expects a Dec rate hike to boost spread income by more than $4mn a quarter.

- **Remains cautious around CRE lending**: Management noted that it intends to grow CRE more slowly as it de-risks the portfolio and until it sees a turn in the cycle. However, management is optimistic on the credit quality of CRE, particularly noting that trends in its Houston real estate portfolio (Houston special mention loans are 1% of Houston CRE) continue to be fairly benign.

## US Bancorp (USB), B-2-7, Neutral

- **Strong growth outlook across the business spectrum**. CEO Richard Davis provided an upbeat view around the outlook for the economy across the business spectrum ranging from small businesses to large corporates and noted that businesses could drive the economic recovery vs the consumer side.

- **Continued investments in regulatory costs despite potential regulatory relief**. On the topic of regulation, management noted that it is still too early to know what type of regulatory relief banks of USB's size may receive so management has not slowed down any of its investments in regulatory costs.

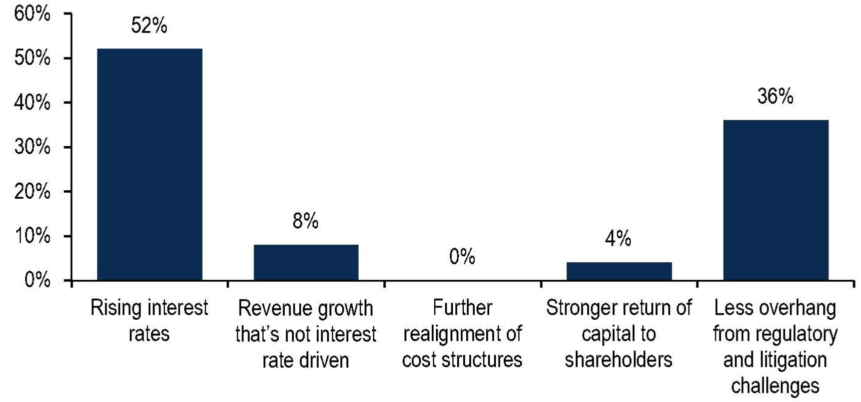
- **Long term 13.5- 16.5% ROE target unchanged**. Despite the outlook for higher rates, management noted that it was not going to change the range at this point of time but noted that USB could reach the top end sooner than later if its outlook proves accurate.

- **Risk management compliance expenses sustaining at this level**. Management noted that while compliance related expenses could trend lower following the new administration, it will continue to invest and the impact will likely not be meaningful.

- **In terms of innovation projects, 86% of those polled noted that it should invest in innovations projects that are self-funded.** Davis noted that given the importance of innovation, it would not just self-fund those expenses and would look to spend money for long term benefits. In terms of its P2P initiative with Zelle, Davis was optimistic around its growth.

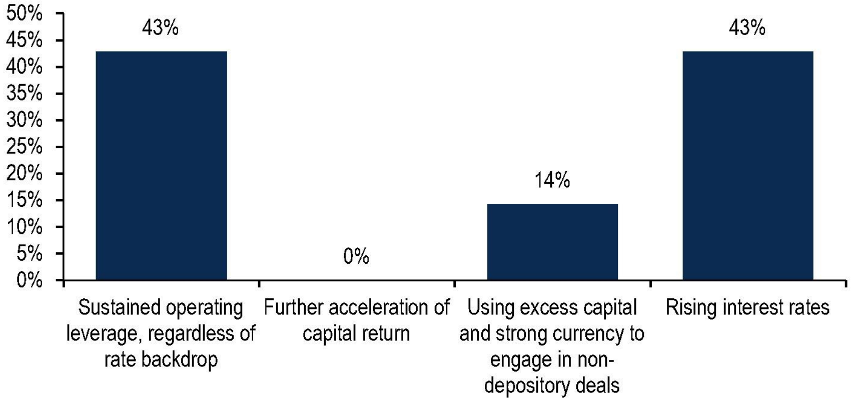
- **In terms of potential M&A, management noted that it would look for in market opportunities and double down where it has scale**.

**Chart 45: What do you consider to be the most important catalyst for large-cap banks in 2017?**



Source: BofA Merrill Lynch Global Research

**Chart 46: What do you consider to be the most important catalyst for USB in 2017?**



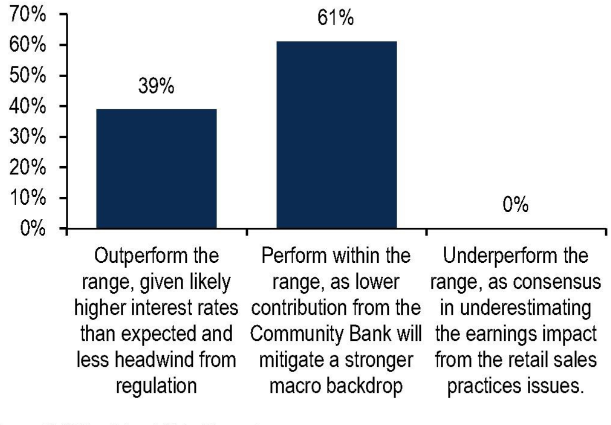
Source: BofA Merrill Lynch Global Research

## Wells Fargo & Co (WFC), B-1-7, Buy

- **WFC sees modestly better benefit from steepening yield curve vs parallel shift**. Following the election, the 10yr yield is up 37bp while futures currently imply a 94% probability the Fed raises rates in Dec. As such, Treasurer Neal Blinde noted that WFC could realize a modestly better benefit to spread income from a steepening yield curve vs. the current +$150mn/qtr expectation from a 25bp parallel shift. He outlined how the bank's actions to manage an interest rate cycle via balance sheet positioning protect on the downside (i.e. post-Brexit) while at the same time allow for an uptick when rates rise. WFC received numerous investor questions on when they would deploy its dry power ($572bn in liquidity), and management noted that the rate backdrop – not question marks on deposit duration – mostly drove deployment decisions.

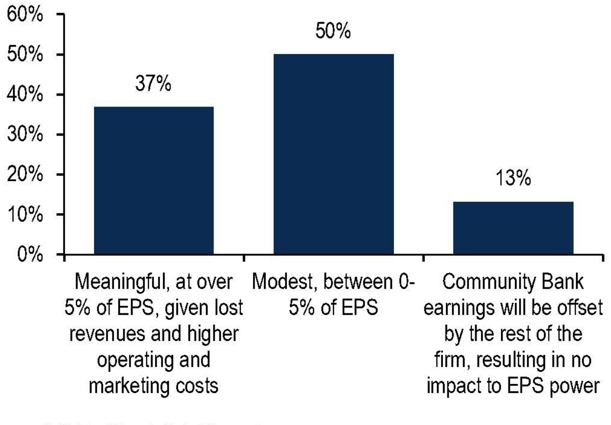
- **WFC reiterated its performance targets disclosed at its Investor Day**. WFC reiterated its 2-yr performance targets: **(1)** 1.1-1.4% ROA; **(2)** 11-14% ROE; **(3)** 55-59% efficiency ratio; and **(4)** 55-75% net capital payout. As of 3Q16, the bank is currently within these ranges on all metrics except for efficiency (3Q: 59.4%). This is consistent with the 61% of the audience polled that expect WFC to perform within the targeted ROE range as headwinds from Retail Banking is offset by an improvement in the macro-economy. That said, 50% of the audience polled believe the issues arising from the retail sales issue will modestly impact earnings (0-5%).

**Chart 47: Based on your post-election outlook for 2017, how do you think WFC will perform against this 2 year target?**



Source: BofA Merrill Lynch Global Research

**Chart 48: What do you think is the earnings impact of the retail sales practices issue?**

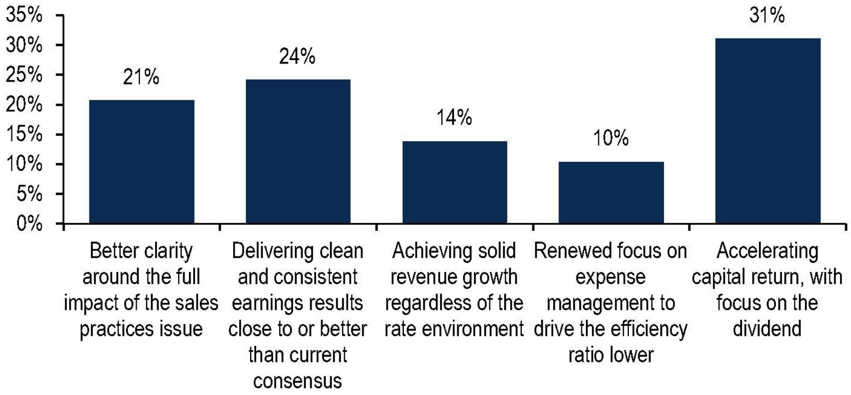


Source: BofA Merrill Lynch Global Research

- **WFC continues to make progress on regulatory compliance**. As of 3Q, WFC's current total loss absorbing capacity (TLAC) shortfall was 2.1% of risk weighted assets or $29bn ($43bn including its internal buffer), an $8bn QoQ improvement. That said, Mr Blinde assured investors that WFC will continue to focus on deposit growth (66% of total funding) even as its long-term debt needs continue. WFC is compliant with the liquidity coverage ratio (LCR).

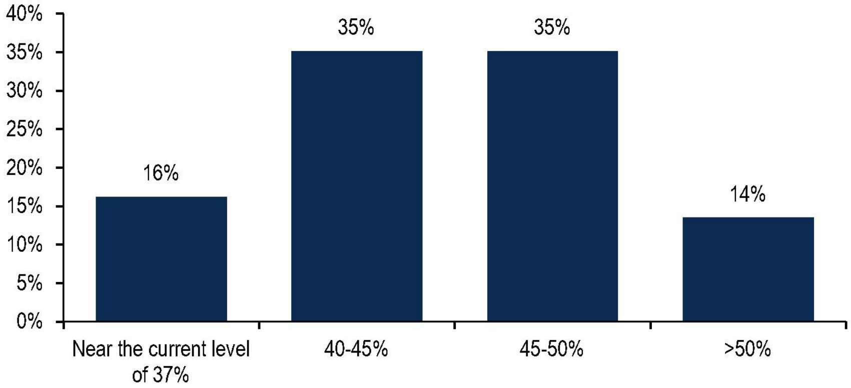
- **Potential changes to annual stress test process viewed as positive**. Mr. Blinde noted that potential changes to the annual stress test process, as proposed by Gov. Tarullo in Sept., is a "real" positive, specifically as it reduces any variance between how the stressed risk weighted asset balance is calculated. This is likely positive for the majority of investors polled (31%) who think capital return is the biggest catalyst for the stock and the (70%) who see the dividend payout growing towards the 40-50% range long-term (currently 37%).

**Chart 49: What do you think is the biggest catalyst for WFC shares over the next 12-24 months?**



Source: BofA Merrill Lynch Global Research

**Chart 50: As a result, what do you think WFC's long-term dividend payout ratio will be?**



Source: BofA Merrill Lynch Global Research

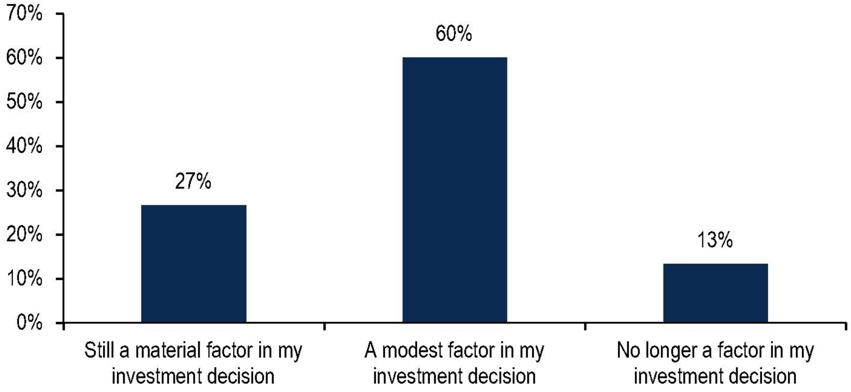
- **Note**: WFC is scheduled to report October customer activity in Retail Banking on Thur, Nov. 17th at 9am ET.

## Zions Bancorporation (ZION), C-3-7, Underperform

- **Sentiment post-election appears constructive on growth prospects**. Consistent with other bank management teams speaking at this year's conference, CFO Paul Burdiss noted that small businesses have been reluctant to invest given the uncertain macro backdrop. That said, following the results of the election, and assuming the new administration can create fiscal stimulus, management sounded optimistic around growth prospects in C&I (10% ex-energy YoY), owner-occupied, etc.

- **Energy portfolio performing in-line with expectations**. Management reaffirmed the >8% allowance on its energy portfolio ($2.3mn or 5% of total loans) remains sufficient to cover future losses. However, continued stress in its oilfield services portfolio (26% of portfolio) remains the primary reason behind ZION's cautious view. This was consistent with the 60% of the audience polled whose ownership in the stock is modestly influenced by this portfolio. That said, until supply/demand fundamentals improve or activity picks up, material reserve release is unlikely.

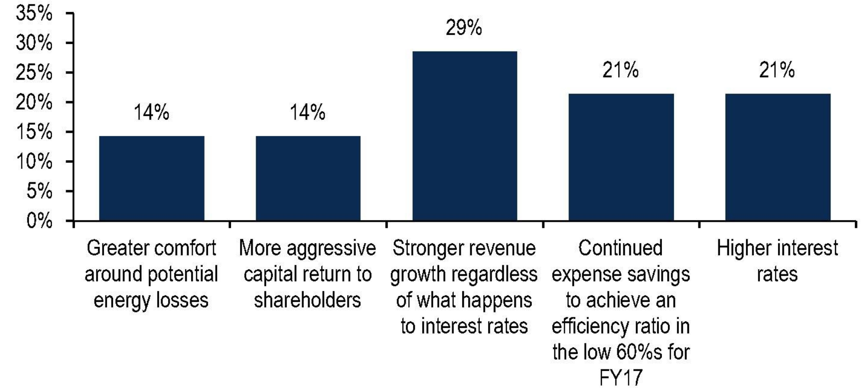
**Chart 51: How much does credit quality in ZION's energy portfolio influence your decision on owning the stock?**



Source: BofA Merrill Lynch Global Research

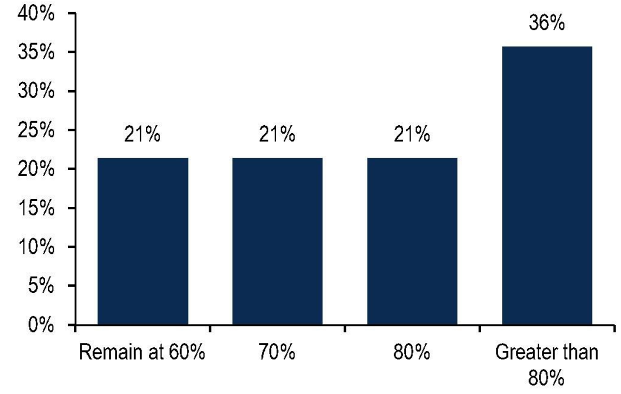
- **Steepening yield curve a modest benefit, though short-end matters more**. Despite recent actions that have reduced the bank's asset sensitivity, ZION remains the most asset sensitive among US banks. For a 25bp rise in the short-end, ZION estimates a $30mn incremental benefit to spread income. That said, due to the variable-rate mismatch between assets/liabilities, a steeper yield curve is expected to have a marginal impact.
- **Potential changes to CCAR viewed as positive for ZION**. Mr. Burdiss viewed the potential change to the annual stress test (CCAR), specifically the static RWA balance, as net positive for the bank/industry. That said, overall these changes are immaterial as CCAR remains their capital constraint. Although only 14% of the audience polled think more aggressive capital return is the most important catalyst for the stock (top response: 29% for stronger revenue growth), investor bias leaned higher as it relates to total payout.

**Chart 52: What do you consider as the single most important catalyst for ZION shares in 2017?**



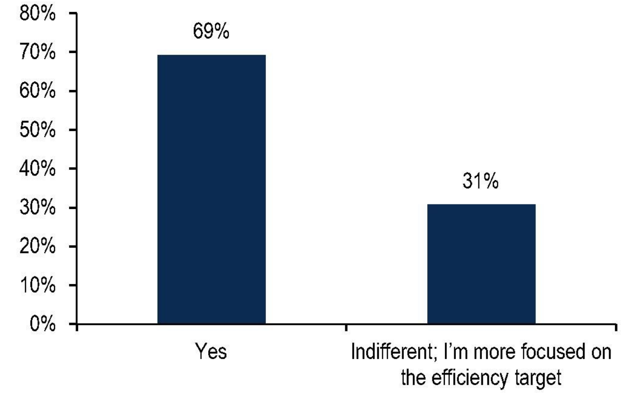
Source: BofA Merrill Lynch Global Research

**Chart 53: Compared to this year's CCAR capital ask which implies a total payout of ~60%, what level would you like to see ZION's 2017 CCAR payout increase to?**



Source: BofA Merrill Lynch Global Research

**Chart 54: ZION expects total expenses in 2016 to come in below $1.58bn and then slightly increase in 2017. Would you prefer absolute expenses be flat to down in 2017?**



Source: BofA Merrill Lynch Global Research

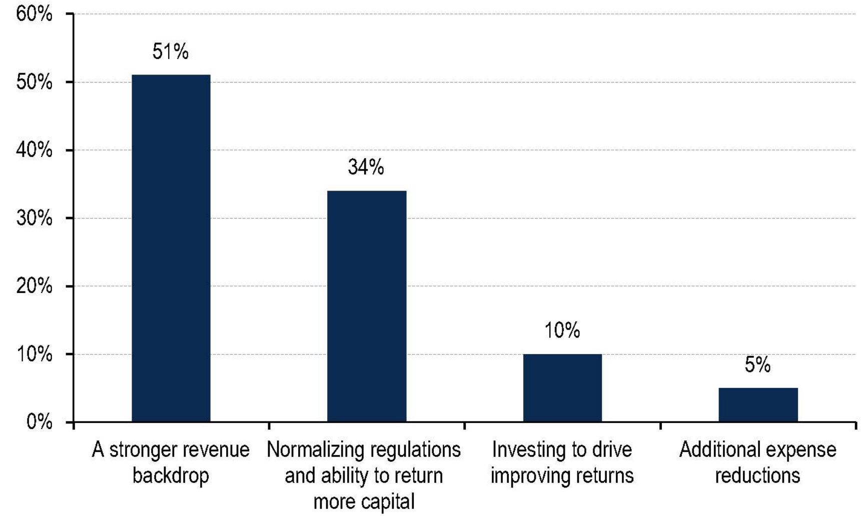
# Brokers Top 5 Takeaways

## Goldman Sachs (GS), B-1-7, Buy

- GS' Harvey Schwartz, CFO, and Harit Talwar, Head of Digital Finance presented at our conference. Overall, Harvey and Harit were optimistic about the consumer lending opportunity with Marcus as well as the overall outlook for the firm.

- When asked about what would get investors more interested in GS stock, 51% of the investors responding to the poll voted for a stronger revenue backdrop, while 34% voted for normalizing regulations and ability to return more capital.

**Chart 55: What would get you more interested in investing in GS stock?**



Source: BofA Merrill Lynch Global Research

- Management focused the presentation on Marcus, Goldman's new consumer lending effort. This venture has significant potential with an unsecured consumer loan target market of $850B and Goldman coming to the market with a unique skillset of technology and risk management, no channel conflicts or bricks and mortar, a strong balance sheet that can provide loans at a meaningful discount to peers, and a long history in the financial markets with a strong brand. When fully ramped up, this unit could produce pre-tax ROA's of 3-4%, and assuming 9-11% equity commitments, this could translate into a high teens ROE.

- Given the positive sector/GS stock reaction post the election, management was asked on what they thought about the future of current regulation and activity levels. While they said it is too early to tell the impact, a lower corporate tax rate would benefit GS some, a pro-growth policy could positively impact confidence/activity levels, and some de-regulation could ease some of the operational challenges, though much of the regulation was well intended and has created a stronger industry.

- In terms of the current environment, GS didn't give an exact update, but said activity has been healthy and around the election activity was similar to around Brexit (slow before and very active post). Most other firms also mentioned positive trends in 4Q, with normal seasonality, but up materially year over year.

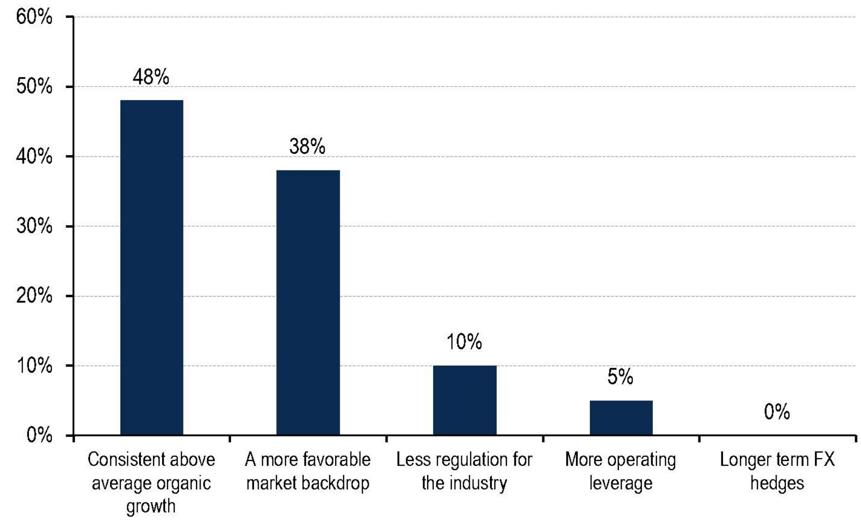
# Asset Managers Top 5 Takeaways

## Invesco (IVZ), C-1-7, Buy

- Presenting from IVZ was Loren Starr, CFO. Overall Loren was optimistic on the outlook for IVZ to generate above average organic growth given its product mix and performance, deliver cost savings, and accelerate buybacks, and does not expect a significant change in the DOL impact from the election.

- When asked what would get investors more excited about investing in IVZ stock, the majority of respondents said that a consistent above average organic growth rate would get them most excited (48%), followed by a more favorable market backdrop (38%), less regulation (10%), and more operating leverage (5%), while nobody said longer term FX hedged would get them more interested.

**Chart 56: What would get you more interested in investing in IVZ stock?**



Source: BofA Merrill Lynch Global Research

- IVZ is confident it can achieve its 3-5% organic growth rate driven by three main pillars. The first being the ongoing search for yield driving fixed income flows/allocation which IVZ has benefitted from and should continue to benefit given their strong performance, distribution, and product set. The second being ongoing "barbelling" by clients which drives flows into passive and alternatives, two products IVZ has leadership in. Lastly, IVZ sees opportunity in its institutional channel, particularly in Asia which has had notable momentum.

- Given the run up in rates, IVZ touched upon its fixed income exposure and what might be at risk of underperformance/outflows. IVZ mentioned roughly $100B of its AUM or ~13% was in fixed income that didn't include short duration or floating rate, a number they feel is relatively small compared to some of its peers. Additionally, within that $100B a major portion had been underperforming because of strategic shorter duration, which in a rising rate environment should lead to outperformance and potentially negate some of the flow headwind.

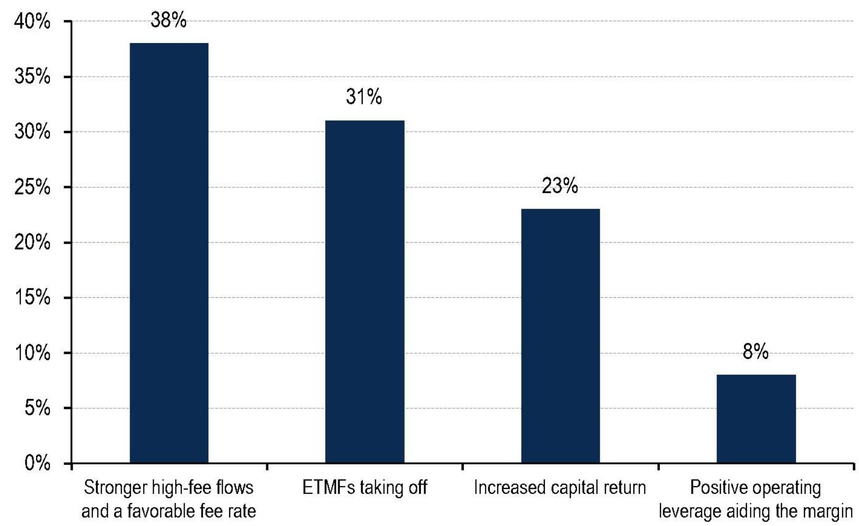
- Regarding potential changes from the election, while very early, management thinks that whatever happens to the DOL Fiduciary Rule (delay, modify, etc.), the industry has already been shifting in a fiduciary direction, and they expect that to continue, though the pace could vary depending on the eventual outcome. Additionally, IVZ is relatively well positioned given its diversification among ETF/passive and active strategies, as well as similar regulations in Europe that it has managed through. In terms of a lower corporate tax rate, that would not have much impact to IVZ given its Bermuda domicile.

## Eaton Vance (EV), B-3-7, Underperform

- Presenting from EV was Thomas Faust, CEO, Laurie Hylton, CFO, and Dan Cataldo, Head of IR and Treasurer. Management reported relatively positive F4Q flows, expects organic growth to hold up well given its mix and performance, and does not expect a significant change in the DOL impact from the election, but would expect a significant benefit from a lower US corporate tax rate.

- When asked what would get you more interested in EV's stock, the majority of investors were fairly split between better high fee flows and ETMFs taking off (38%/31% respectively). Investors also thought increased capital return was important (23%) while investors thought more operating leverage was least important for EV (8%).

**Chart 57: What would get you more interested in investing in EV stock?**



Source: BofA Merrill Lynch Global Research

- EV disclosed their F4Q AUM which was $336.4B up modestly from $334.4B at the end of its prior quarter as modest market losses were offset by inflows which were also disclosed by EV. Flows for C3Q (F4Q) were $4.8B/6% aog or $1.7B/3% aog ex exposure management flows, roughly in-line with expectations in a fairly challenging backdrop. EV also commented on their recent acquisition of Calvert Investments (~$12B AUM, see note) and is excited about the opportunity in ESG investing. Calvert is a leader in investing in socially responsible companies, a small but rapidly growing area.

- When asked about the outlook on fixed income performance and flows given the recent run up in rates as well as the outlook, EV was fairly positive in their outlook given their positioning and leadership in floating rate which should perform well and attract flows in a rising rate environment.

- ETMFs continue to be topical for EV given they are the only player in the non-transparent active ETF business with their NextShares franchise. EV has launched 3 NextShares thus far and Waddell and Reed launched 3 of their own in October, making 6 total NextShares in the market right now, however they are only available through Folio and Interactive Brokers. While we continue to view this as not very significant in the near term and a potential longer term opportunity, with EV signing on UBS and Envestnet for distribution in 2017, we should see a little more traction ahead.

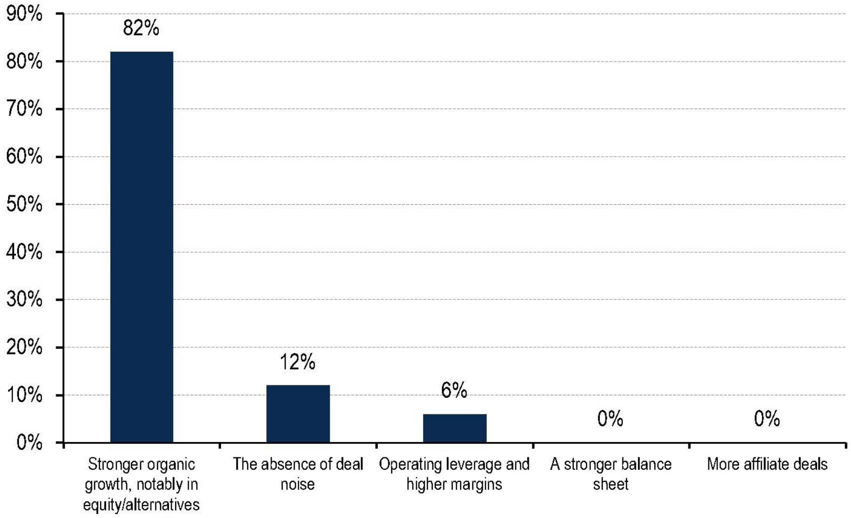
- Regarding potential changes from the election, while very early, management thinks that whatever happens to the DOL Fiduciary Rule (delay, modify, etc.), the industry has already been shifting in a fiduciary direction, and they expect that to continue, though the pace could vary depending on the eventual outcome. Additionally, EV has limited exposure to higher distribution share classes (<20% of sales), so they see a more limited impact. In terms of a lower corporate tax rate (15-20%), this would have a meaningful benefit for EV, potentially increasing earnings by 15-20%.

## Legg Mason (LM), C-1-7, Buy

- Presenting from LM was Joe Sullivan, Chairman & CEO, and Alan Magleby, Head of IR. Joe was optimistic on the flow outlook for LM given the repositioning over the past few years, mostly favorable investment performance, and a healthy institutional pipeline, and does not expect a significant change in the DOL impact because of the election or a lower corporate tax rate on their cash tax rate.

- When asked what would get you more interested in investing in LM stock, investors overwhelmingly (82%) replied "strong organic growth, particularly in equity/alternatives" while the absence of deal noise (12%) and higher margins/operating leverage (6%) were less interesting for investors. Nobody said that a stronger balance sheet or more affiliate deals would get them more excited about LM's stock.

**Chart 58: What would get you more interested in investing in LM stock?**



Source: BofA Merrill Lynch Global Research

- LM was relatively upbeat on the flow outlook, despite some ongoing headwinds for the industry. Management sees the following drivers offsetting some of the industry headwinds to position LM to flow better than the industry: strong investment performance, notable progress with consultants over the last several years, a healthy institutional pipeline ($8B of unfunded wins/$3B uncalled committed capital), highest level of search activity in active equity in several years, large cash balances in Europe (20-50% cash allocation across the continent), increasing demand for real estate / infrastructure / alts (Clarion, RARE, and EnTrustPermal), and a diverse / differentiated product/vehicle set.

- Management also mentioned that besides offering well performing products across strategies, it also wants to be able to deliver to clients in different vehicles, including ETFs. The firm has been launching some ETF products and also has an interest in Precidian, which has its non-transparent ETF submission under the review process.

- Regarding potential changes from the election, while very early, regarding the DOL fiduciary rule, LM sees it getting delayed and watered down some as the most likely outcome. However, they mentioned the fiduciary rule was just an accelerant for trends that were already occurring (i.e. the shift to fee based accounts and away from brokerages) and whether or not the rule goes through as expected or gets modified will not likely change the outlook. LM feels its strong positioning in global distribution and product sets bodes well to perform in a new fiduciary world.

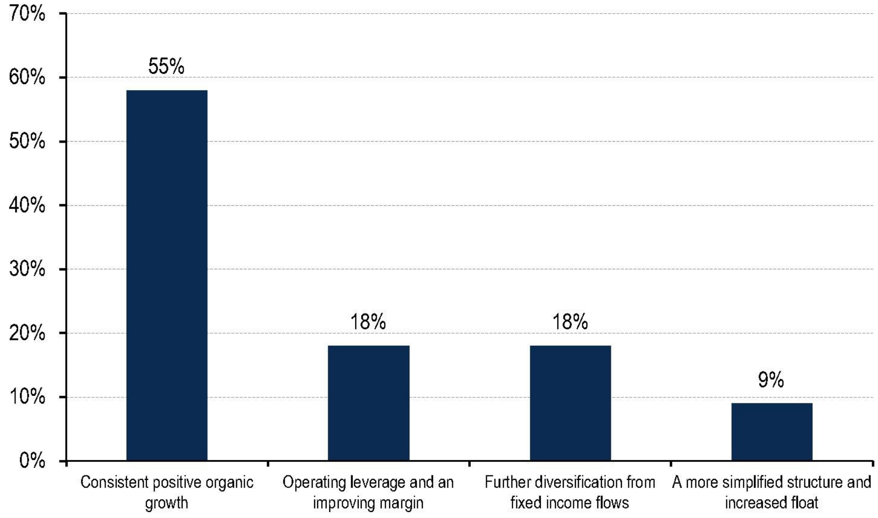
- Additionally, a lower potential U.S. corporate tax rate will not change its cash tax rate which is likely to be 6-7% through 2021 and in the mid-teens through 2025 after that. However, it would impact GAAP EPS and a lower corporate tax rate would lower the value of LM's DTA.

## AB (AB), B-1-8, Buy

- Presenting from AB was Peter Kraus, Chairman & CEO. Peter expects AB to generate above average organic growth and hopes to accelerate it given its product mix and mostly favorable investment performance. In addition, he sees the potential for new pricing in the industry, and does not expect a significant change in the DOL impact from the election or a lower corporate tax rate on their tax rate.

- When asked what would get you more interested in AB's stock, 55% of investors said they wanted to see consistent positive organic growth, 18% said a better operating margin, another 18% said diversification from fixed income flows (i.e. equity and alternative flows), and only 9% of investors wanted to see a simplified structure and increased float.

**Chart 59: What would get you more interested in investing in AB stock?**



Source: BofA Merrill Lynch Global Research

- AB has seen and expects to continue to see above average organic growth (ex 3Q which was weighed down by lumpy institutional outflows) given a relatively new and attractive product set, strong investment performance (notable improvement in recent years), better traction with the consultant community, and opportunities to gain in the retail and private wealth channels.

- Regarding potential changes post the election, AB had a similar tone to other asset managers on DOL, in the sense that it likely gets delayed/modestly modified, but regardless of what happens, asset managers and distributors need to accept that the industry is living in a new fiduciary world with minimized (potentially no) conflicts of interest which ultimately is a good thing for end clients. A lower potential corporate tax rate would not likely benefit AB given its tax structure/low current tax rate.

- Another topic which AB elaborated on was fees/pricing particularly in the US retail market. Peter Kraus commented that there is a very strong philosophical argument for the regulators to approve new fee structures which would allow investors to pay a low beta fee and a higher performance fee for alpha generated (while it exists in Europe, a similar structure is not available in the U.S.). While some in the industry may not be fans to adapt such a structure, given challenging cost structure changes, he thinks the product could be much more competitive relative to passive products.

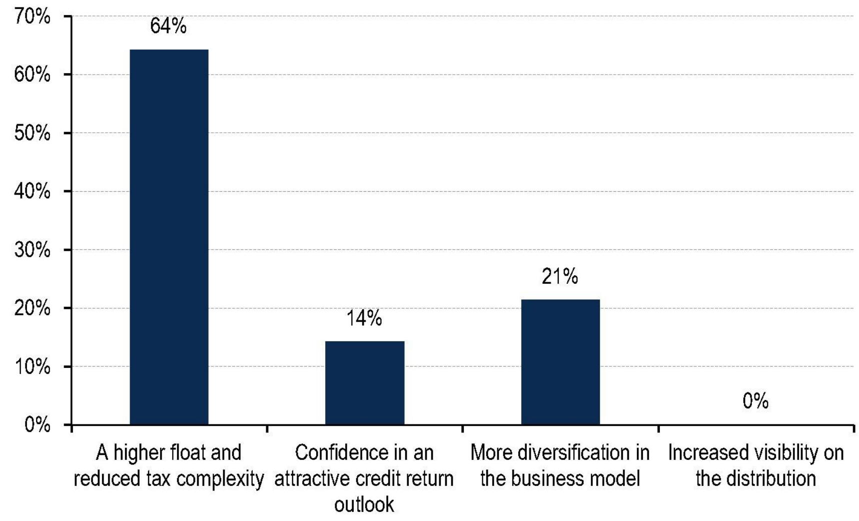
# Alternative Asset Manager Top Takeaways

## Ares Management (ARES), C-2-7, Neutral

- Michael Arougheti, Co-founder and President, presented for Ares. Overall, Mr. Arougheti was positive on the firm's growth prospects, given demand for their products across the platform by institutional investors. In addition, given recent fundraising and fees on the horizon, the outlook for FRE and DE is attractive.

- When asked "What would get you more interested in investing in ARES stock?" the most common response was a higher float and reduced tax complexity (64%), followed by more diversification in the business model (21%), and confidence in an attractive credit return outlook (14%). Investors were less concerned over the visibility on the distribution (0%).

**Chart 60:** **What would get you more interested in investing in ARES stock?**



Source: BofA Merrill Lynch Global Research

- If comprehensive tax reform includes an elimination of carried interest tax, potentially moving to an ordinary income rate, it could have some impact to after tax unitholder returns, but 80-90% of revenue comes from management fees and much of the income already faces a corporate tax rate. It could make it more attractive to shift to a C-corp. A change to the tax deductibility of interest expense could have more far-reaching changes to the business, and to U.S.

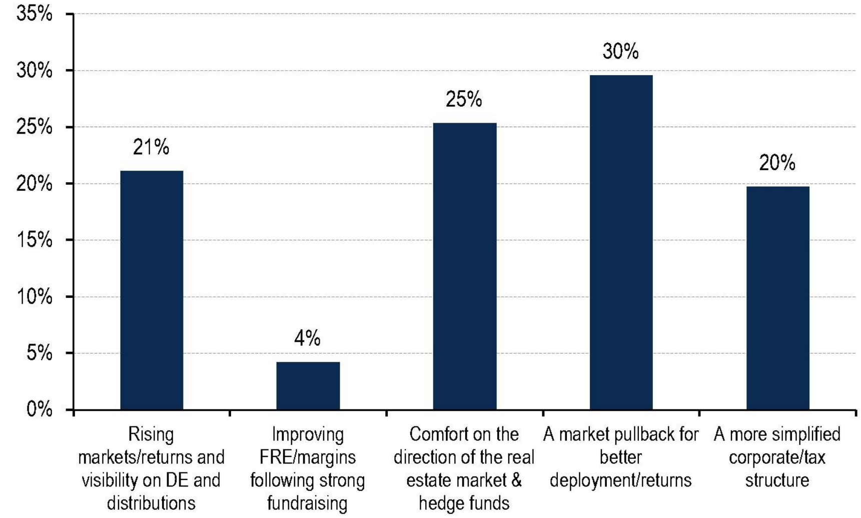
- Ares will always look to do tuck-in acquisitions, and has been doing almost one a year. The pipeline of M&A opportunities continues to grow for ARES, given demographics of principles with founders aging, and the environment becoming harder to compete for small managers.

## The Blackstone Group (BX), C-2-8, Neutral

- Jonathan Gray, Global Head of Real Estate, presented for Blackstone. Overall, Mr. Gray was positive on the outlook for the U.S., with new pro-growth fiscal policies likely. Mr. Gray also thinks that concerns over the commercial real estate market may be overdone.

- When asked "What would get you more interested in investing in BX stock?" the most common response was a market pullback (30%), followed by comfort on the direction of the real estate market (25%), rising returns and visibility on distributions (21%), and a more simplified structure (20%), while fundraising and margin improvement were less important (4%).

**Chart 61:** **What would get you more interested in investing in BX stock?**



Source: BofA Merrill Lynch Global Research

- Mr. Gray thinks the economic narrative has changed for the U.S., from low growth and low interest rates to a more pro-growth outlook. There will likely be lower taxes, less regulation, and more fiscal spending. A potential offset is that deficits from government spending and tariffs could create inflation. Even so, management was cautiously optimistic on growth.

- For Europe, Brexit was the big news and Mr. Gray expects the next couple of years will be somewhat challenging for the U.K, though the bigger question is core Europe, where rates and inflation are likely to be lower for longer. In Asia, China is decelerating, particularly for manufacturing, infrastructure, and real estate which will likely continue though don't expect a hard landing in China. A trade war between the U.S. and China could be a risk to the downside for China. In India, BX sees accelerating economic growth and falling inflation and interest rates, along with a lot of demand for office space in India.

- Mr. Gray does not believe we are in the early stages of the real estate cycle, but concern over a bubble in commercial real estate in the U.S. is probably overdone for a couple of reasons. 1) Supply and demand are reasonable, given modest growth in supply and an economy that is growing. 2) Debt levels aren't out of hand like in '06/'07. 3) Cap rates are low at around 5%, compared to '07 when 10yr treasuries were at the same level. Overall, you aren't going to see the same returns as in the past, but looking at past periods where rates and growth increased, commercial real estate did fine.

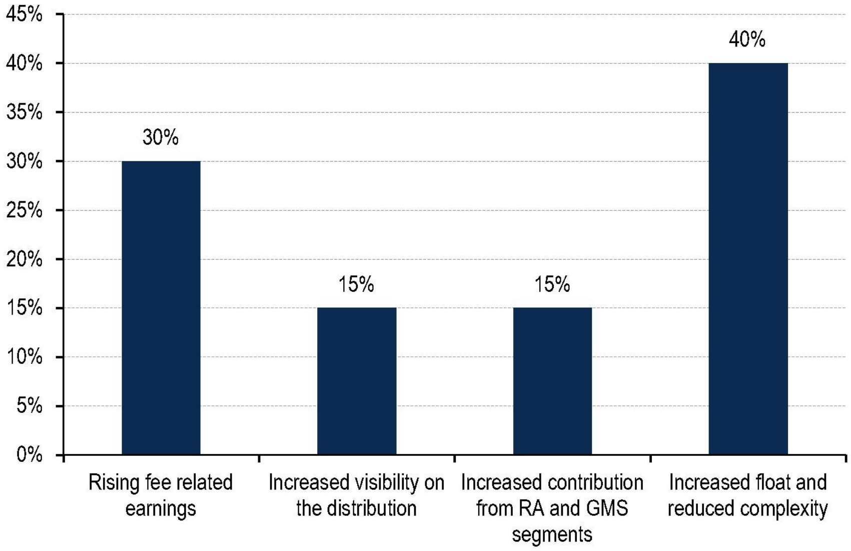
- In terms of growth, Mr. Gray is optimistic on the outlook. Half of the areas BX invests in today didn't exist at the time of the IPO, and that culture of innovation, growth, and investing for attractive returns is alive and well.

## Carlyle Group (CG), C-2-8, Neutral

- Glenn Youngkin, President and Chief Operating Officer, presented for CG. Overall, Mr. Youngkin is positive on the economic/market backdrop and on CG's ability to generate cash carry relatively consistently over time given the firm's diversity of funds.

- When asked "What would get you more interested in investing in CG stock?" most investors would like to see an increased float and reduced complexity (40%), followed closely by rising fee related earnings (30%). Investors are also interested in seeing increased visibility on the distribution (15%) and increased contribution from RA and GMS segments (15%).

**Chart 62: What would get you more interested in investing in CG stock?**



Source: BofA Merrill Lynch Global Research

- If comprehensive tax reform includes an elimination of carried interest tax, potentially moving to an ordinary income rate, it could have some impact to after tax unitholder returns. However, Glenn thinks it is very early to speculate on any changes and expects tax changes to likely be comprehensive.

- Glenn sees the potential for a strong push in infrastructure, along with tax change, defense spending, and the border will get a lot of attention along with international trade. Three main conclusions: 1) First time in a long time that there is a universal pro-business outlook across congress and the presidential office; 2) Unclear today what is going to be enacted, there is optimism but uncertainty; and 3) CG is not going to make meaningful changes one way or another based on speculation. CG launched its latest infrastructure fund in September, and the election results are more wind in the sails.

- CG has multiple funds, each with its own economic engine. That makes the cash flow profile more stable than other firms. Management believes that a discounted valuation in the stock is driven more by fear of a recession vs. lower FRE. Glenn thinks that outlook has changed with the election. The economy may be going into extra innings now.

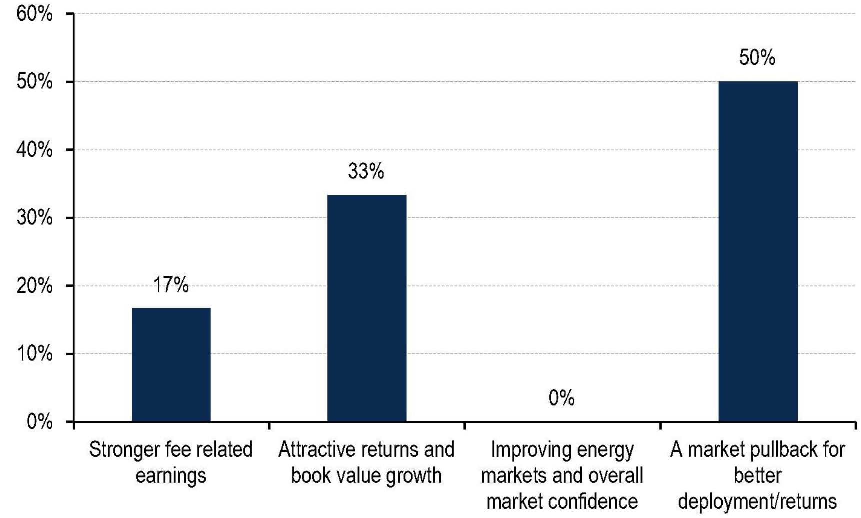
- The investment environment hasn't changed materially in last few weeks - it continues to be tough. Global growth will continue to be muted, and despite the move in the ten year treasury rate, interest rates remain low and the combination of those things results in high prices.

## KKR & Co (KKR), C-1-8, Buy

- Bill Janetschek, Chief Financial Officer, presented for KKR. Overall, Mr. Janetschek believes that KKR's balance sheet gives them the ability to take advantage of market dislocations, sees opportunities to grow in certain areas (e.g. infrastructure and real estate), and noted that they don't need to grow the headcount to bring on more assets.

- When asked "What would get you more interested in investing in KKR stock?" the most common response was a market pullback for better deployment/returns (50%). Respondents also felt that attractive returns and book value growth (33%), and stronger fee related earnings (17%) were also important. Less important for investors was improving energy markets and overall market confidence (0%).

**Chart 63: What would get you more interested in investing in KKR stock?**



Source: BofA Merrill Lynch Global Research

- Overall, KKR likes the publicly traded partnership structure today. If comprehensive tax reform includes an elimination of carried interest tax, the income would still get passed through in that scenario which avoids a second level of taxation, so it still may not be attractive to change the structure. But, if the corporate rate is also lowered significantly, it could potentially make sense to go to a c-corp.

- Bill sees infrastructure as a real growth area for KKR. 7-8 years ago it was difficult to raise an infrastructure fund as the asset class didn't do very well in the financial crisis; today there is more interest. KKR's first infrastructure fund was around $1B and the second one was around $3B. Infrastructure needs are tremendous long-term, with $1-2 trillion capital needed for projects over the next decade, and infrastructure spend is one area of consistency across the two major parties.

- Management thinks that investors understand the reason for the change in the distribution policy. KKR likes to pay out the stable dividend and redeploy capital into the balance sheet. As part of the year-end process, KKR will likely review the level of the fixed distribution and determine whether it should be changed. KKR would like to have around 40% of the balance sheet invested in private equity over time.

- KKR will manage concentration risk, and it is unlikely that the firm will make another investment as big as First Data again. The biggest advantage to having a large balance sheet is the ability to take advantage of market dislocation, along with high margins.

- The firm grew at a healthy rate from 2004-2014, and with around 1,200 people now there doesn't need to be much growth in headcount for the time being, the infrastructure is in place. Marshall Wace AUM has grown significantly since they did the deal, due in part to advantages from combining the two firms. Real estate is an area where KKR is small and could see more growth.

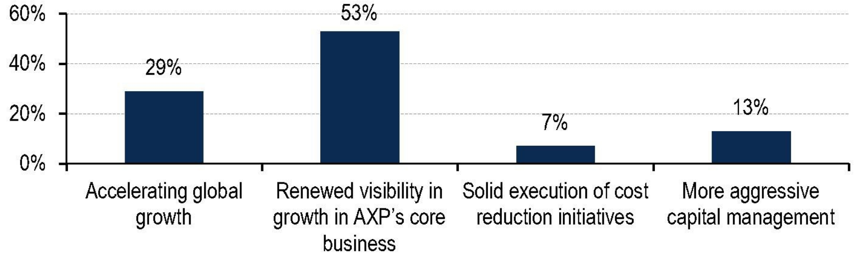
# Specialty Finance

## American Express Company (AXP), B-2-7, Neutral

- Presenting from American Express Company was Mr. Jeff Campbell, Chief Financial Officer. Overall we thought AXP presented a fairly upbeat outlook on billings, loan and revenue growth. AXP did express caution on near-term Discount rate pressures and FX headwinds.

- When asked what would be a key factor to increase / initiate a position in AXP, 53% of the audience said they would like to see better visibility in AXP's core growth. AXP acknowledged the sale of the Costco portfolio to Citi has added complexity to reporting results and has provided additional disclosures on underlying trends in the quarterly results. AXP also said that accelerating revenue growth is a key area of focus for management.

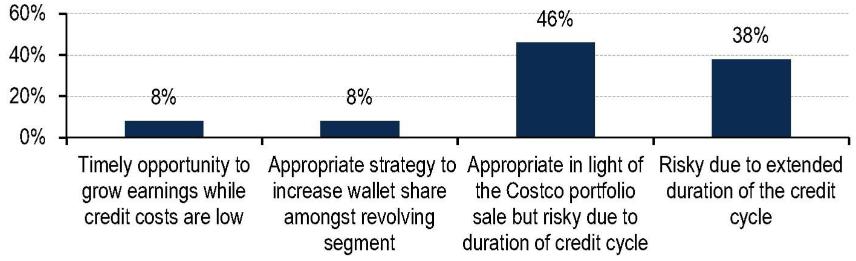
**Chart 64: What would be a key factor for you to increase / initiate a position in American Express?**



Source: BofA Merrill Lynch Global Research

- AXP was a little surprised that more investors did not view its focus on loan growth as an appropriate strategy to increase wallet share amongst the revolving segment. Instead a plurality of investors viewed AXP's strategy as appropriate in light of the portfolio sale but risky due to the duration of the credit cycle. While investors were concerned about the duration of the credit cycle, AXP emphasized its low loss rates and premium customer base as well as the loss of the Costco portfolio to argue that AXP's credit profile will not materially change from its current strategy to grow revolving balances through revolving credit card customers.

**Chart 65: How would you describe American Express' strategy to expand exposure to credit?**



Source: BofA Merrill Lynch Global Research

- On a more cautious note, AXP said that Discount rate pressures are likely to remain elevated near-term as EU merchants renegotiate contracts post-interchange rules and the OptBlue program gains additional scale in the US. Strengthening in the US$ will also lead to FX headwinds that will likely impact NT results, particularly from countries like Mexico where AXP has a large business.

# Conference Panels Top Takeaways

**Contact your BofA sales representative for additional information.**

## Blockchain: Potential Transformation of Financial Markets

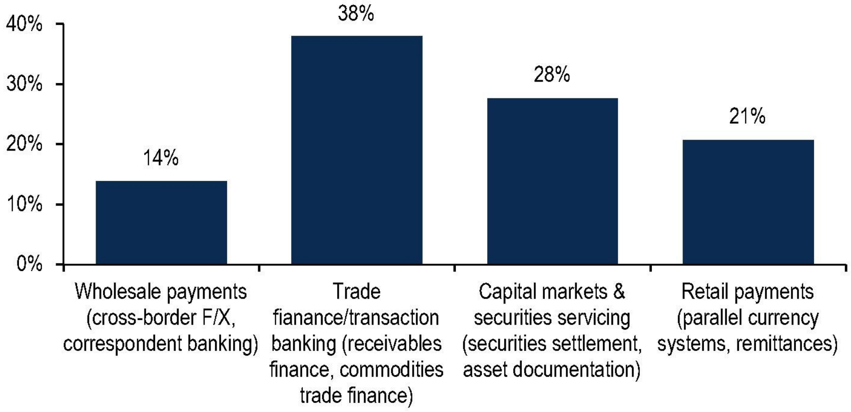
With Blockchain one of the most talked about potential disruption in financial services and 71% polled noting that blockchain is a significant opportunity for financial service firms, we thought it was timely to host a panel on the potential impact of Blockchain on financial markets that included **Co-founder & COO of R3 Todd McDonald and CEO of Axoni Greg Schvey.**

- **Blockchain could lead to $60-80bn of annual potential cost savings for financial institutions.** While it is still early days to know what the full impact of potential cost savings that blockchain technology could bring to financial institutions, the panelists believe that total savings could reach $60-80bn.

- **Successful implementation of equity swaps**. An area where Blockchain has shown to be successfully implemented is around equity swaps. Axoni had worked with multiple financial institutions to handle data reconciliation around its equity swaps record which drove efficiencies.

- **Trade finance viewed as most likely for success**. When asked which part of the financial industry will be the first to successfully utilize blockchain technology, 38% of those polled cited trade finance/transaction banking as the most likely, with 28% citing capital markets & securities servicing.

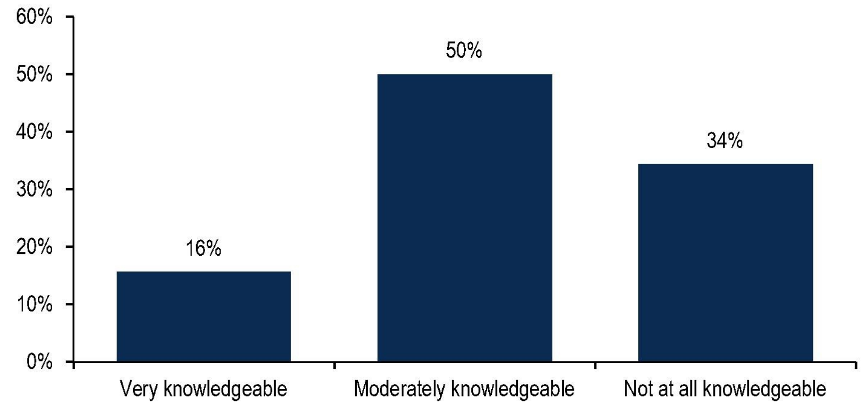
**Chart 66: Which part of the financial industry do you believe will be the first to successfully utilize blockchain technology?**



Source: BofA Merrill Lynch Global Research

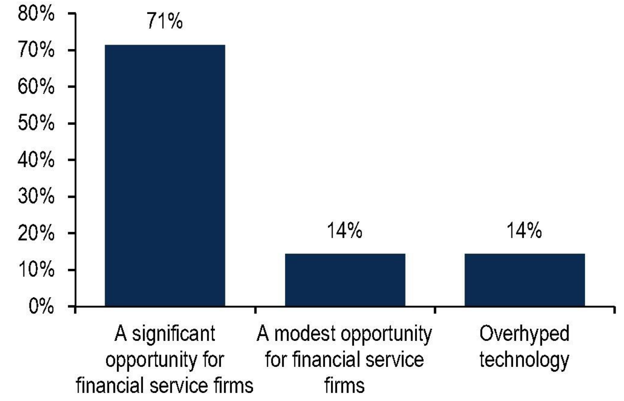
- **Implementation could be earlier than expected.** While many investors are skeptical that blockchain will be broadly adopted in the near term, with none of the audience expecting it to be widely adopted within 12-24 months, the panelists were more optimistic and believes that there could be upside surprise in terms of the timing as proof points and implementation could happen more quickly than expected.

**Chart 67: How  knowledgeable are you with blockchain technology?**



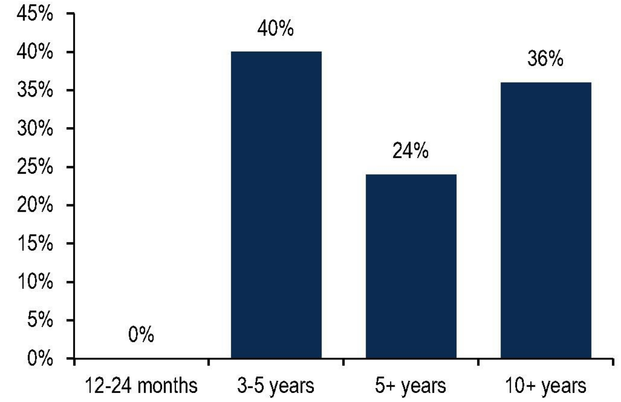
Source: BofA Merrill Lynch Global Research

**Chart 68: After this panel, how do you feel about the applicability of blockchain technology in financial services?**



Source: BofA Merrill Lynch Global Research

**Chart 69: How long do you think it will take for financial sevices industries to broadly adapt blockchain technology?**



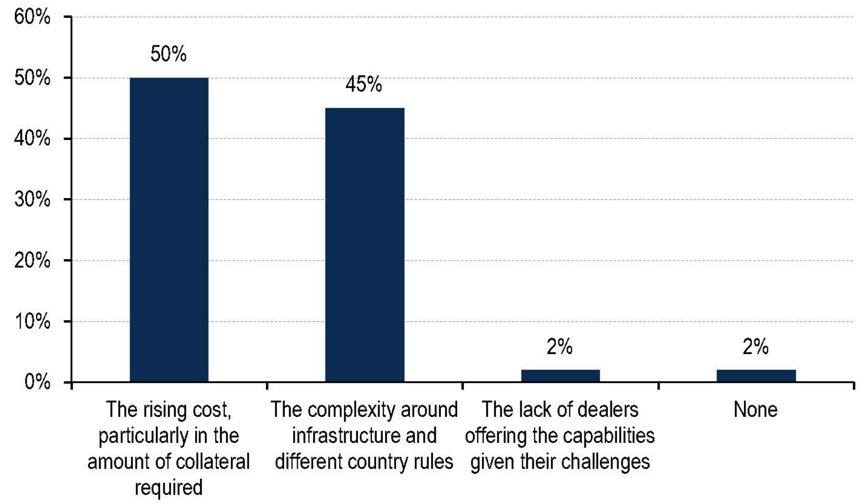
Source: BofA Merrill Lynch Global Research

## The Future of Clearing: Understanding the Options

- Guest speakers in this panel included Brian Ruane (CEO, Broker Dealer Services, BNY Mellon), Lee Betsill (Chief Risk Officer, CME Group), Michael C. Bodson (President & CEO, DTCC), John Horkan (Head of North America and Global COO, Rates & FX, LCH, LSE Group) and Marcus Denne (Director, Global Clearing, BofA Merrill Lynch).

- With the start of the Uncleared Margin Rule (UMR) on September 1st, we asked investors what was the primary challenge related to the new clearing rules. Most investors (95%) thought the rising cost, particularly in the amount of collateral required (50%) and the complexity around infrastructure and different country rules (45%) were the main issues.

**Chart 70: What is the primary challenge related to the new clearing rules?**



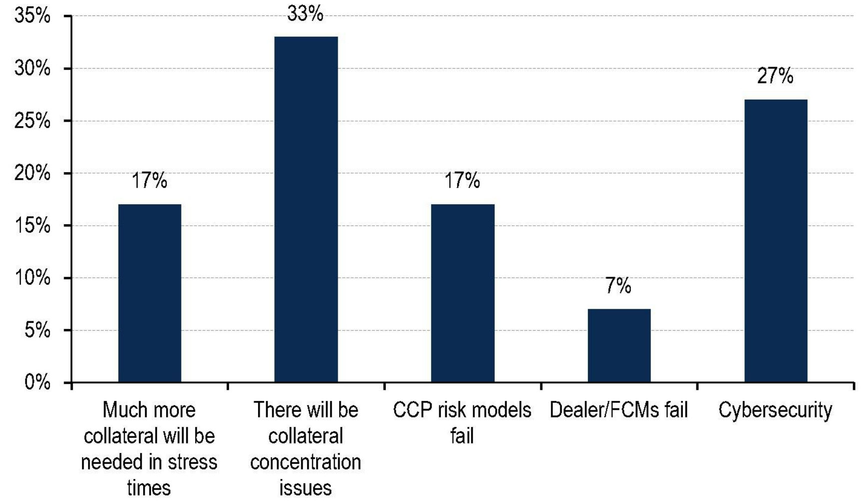
Source: BofA Merrill Lynch Global Research

- Panel participants believe that the election/shift in regulatory outlook might lead to a slowdown of products being added to the clearing mandate, with FX being the biggest unknown.

- Going forward, firms are tackling U.S. vs Europe collateral harmonization/transfer (DTCC and Euroclear are working on a collateral transfer initiative that is expected to launch in 1Q17), collateral management through firms including BNY Mellon, and Cleared repo could also be on the horizon (CME has filed an application with the SEC but no timeline given).

- We asked investors what the biggest potential risks are in the clearing mandate and CCPs, and 33% of voting investors thought collateral concentration issues with cybersecurity (27%) coming in 2nd.

**Chart 71: What is the biggest potential risk in the clearing mandate and CCPs?**



Source: BofA Merrill Lynch Global Research

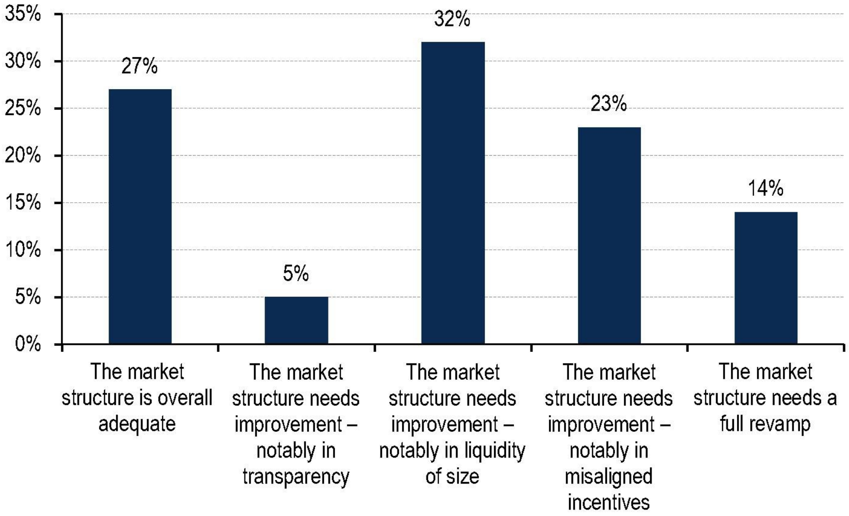
## Equity Market Structure: Simplifying the Complex

- Guest speakers in this panel included Anthony Barchetto (EVP, Head of Corporate Development, BATS Global Markets, Inc.), Jamil Nazarali (Head of Execution Services, Citadel Securities Inc.), Eric Stockland (Chief Strategy Officer, IEX Corp.) and Pankil Patel (Managing Director, Electronic Sales, BofA Merrill Lynch).

- Panel members had a spirited debate regarding the current market structure pros and cons, rebates, off-exchange trading, latency, market maker obligations, and the future of regulation post the election.

- We asked investors what they thought of the current state of the equity market structure, and 74% thought that the market needs revamping. 32% believe that there was a problem with the depth of liquidity and 23% thought there were misaligned incentives.

**Chart 72: What is your view of the current state of the equity market structure?**



Source: BofA Merrill Lynch Global Research

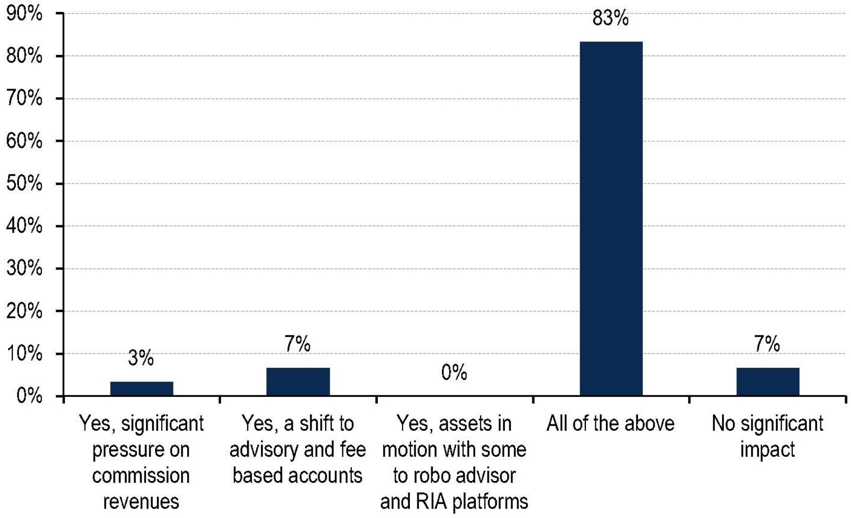
- Given the announcement that SEC Chairwoman White will leave at the end of President Obama's term, this will likely lead to some regulatory uncertainty and lack of activity given not enough commissioners to make forward progress. In addition, the new Chair will likely be focused on less regulation and one panel member thought Reg NMS could come under review.

## Life after DOL: Evolving Beyond the Fiduciary Rule

- We hosted industry experts for a panel on the Department of Labor's (DOL) fiduciary rule, which is set to go into effect in April 2017. Panel participants included Michael Hadley (Partner at Davis & Harman LLP), Lisa Bleier (Associate General Counsel at SIFMA), and Kevin Crain (Head of Workplace Financial Solutions at Bank of America Merrill Lynch).

- Given potential changes for the brokerage industry, we asked investors "Will the DOL's fiduciary rule cause meaningful changes to the brokerage industry?". Most investors believe that the rule will cause a number of significant changes to the brokerage industry (83%), including significant pressure on commission revenues, a shift to advisory and fee based accounts, and assets in motion with some to robo advisor and RIA platforms.

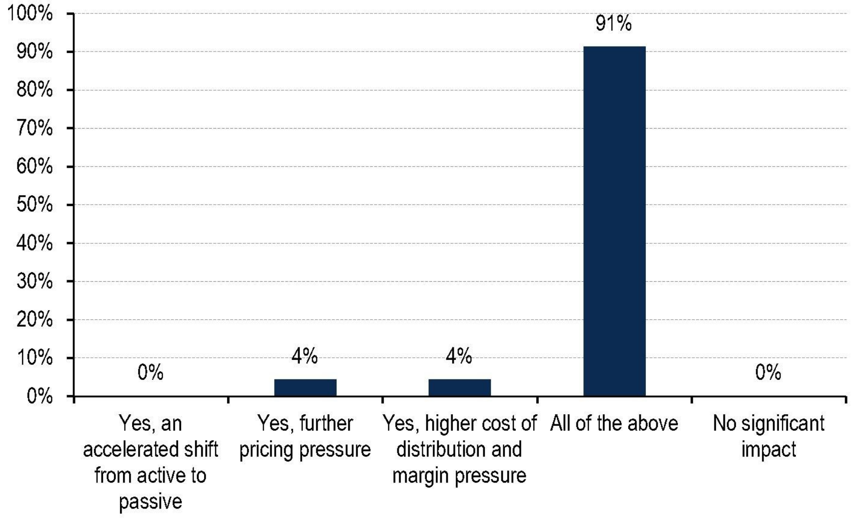
**Chart 73: Will the DOL's fiduciary rule cause meaningful changes to the brokerage industry?**



Source: BofA Merrill Lynch Global Research

- We also asked about changes to the asset management industry, positing "Will the DOL's fiduciary rule cause meaningful changes to the asset management industry?" Investors again expect multiple changes (91%), including an accelerated shift from active to passive, further pricing pressure, and higher cost of distribution and margin pressure. No respondents expect there to be no significant impact to the asset management industry.

**Chart 74: Will the DOL's fiduciary rule cause meaningful changes to the asset management industry?**



Source: BofA Merrill Lynch Global Research

- The panel noted that President Elect Trump did not address the Fiduciary Rule during his campaign, so his view on the rule is unknown, but Republicans have largely been against it. There is some precedence on what we could expect President Elect Trump to do with the fiduciary rule. President Bush had implemented an investment advice regulation that President Obama delayed several times until it was finally withdrawn. The view from the panel was that the most likely action over the next several months is that President Elect Trump delays the rule, though to repeal or change it would take work and new regulatory proposals. Mr. Trump and congress could also ultimately defer to the SEC to act on a Fiduciary Rule.

- The biggest issue from the brokerage industry is the contract requirement under the BIC. The issue with the contract is increased liability, given the contract makes it easier to litigate. This would likely be the primary area for modifications. Even though many firms have made announcements regarding changes they expect to make, most have not figured out all of the underlying steps yet given that it is so complicated and impacts large parts of the business.

- The industry will have to move forward on implementing the rule, given the April 2017 implementation date, but firms may not put as much effort into certain areas that need to be final by January 2018. In addition, prior to Mr. Trump starting, the transition team could make an announcement about the rule. However, even at that stage firms would have to determine whether or not to act on the announcement.

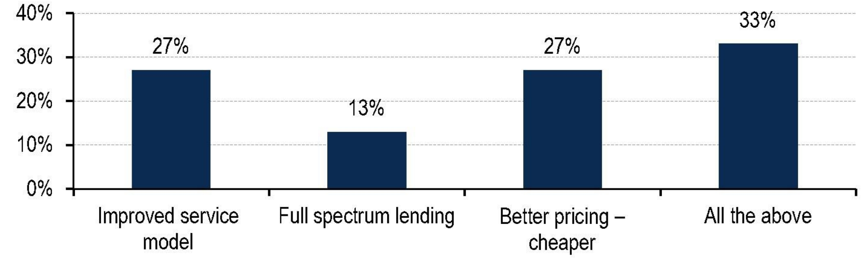
- While the most likely scenario is a delay in the rule, with the potential for some modifications to ease some of the burdens, most see the trend towards a fiduciary rule already well in motion for the industry.

## The Future of Tech-Based Lending

- James Paris, Executive Vice President at Avant, Ashish Jain, Senior Vice President at SoFi and John Schleck, Senior Vice President at Bank of America discussed key trends and recent developments in Tech-Based lending.

- Audience members and panelists generally agreed that improved customer service, full spectrum lending, and better pricing all are contributing to the growth in tech-based lending. SoFi did caution that better pricing is not usually the primary driver as banks can usually offer cheaper pricing.

**Chart 75: What is the biggest driver of growth in tech-based lending**

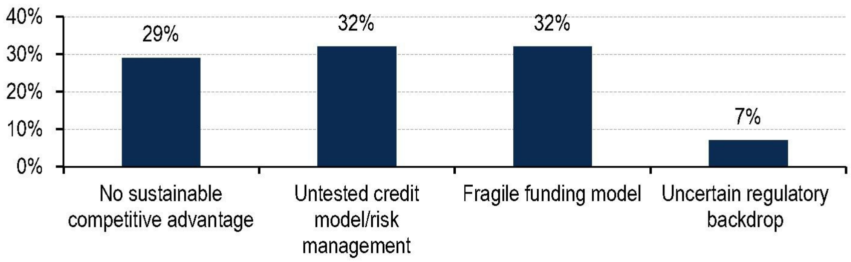


Source: BofA Merrill Lynch Global Research

- Acquisition models differ by company but being efficient at customer acquisition is key for a successful tech-based lender. SoFi estimated that its customer acquisition cost is 1/5th that of a bank which enables it to effectively compete and partner with banks. Panelists highlighted the use of data analytics to more efficiently target potential customers via direct mail, digital ads or through affiliate programs.

- Audience members were split on the main risks to investing in tech-based companies with limited sustainable competitive advantage, untested credit models and fragile all highlighted as key risks. Somewhat surprising given events earlier this year, regulatory concerns were not high on the list of investor concerns.

**Chart 76: Biggest risks to investing in a tech-based lending companies**



Source: BofA Merrill Lynch Global Research

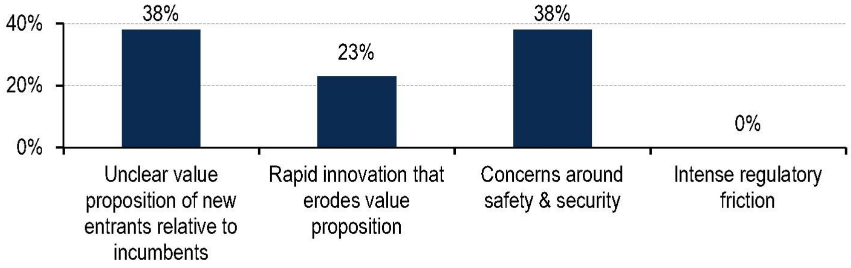
- Panelists agreed that flexible funding models that utilized both balance sheet lending and distribution of loans were important for a tech based lender. Additionally, panelists said that risk management is top of mind and tech based lenders are increasingly applying refined analytics that rely on credit variables directly from credit bureaus into their lending and portfolio management decisions

## The Future of Payments: The Need for Speed

- Jonathan Lear, President – North America, Earthport and Bruce Parker, Founder of Modopayments spoke on The Future of Payments panel. In a wide ranging discussion, the panelists discussed the B2B opportunity, the importance of partnering with incumbents and the need to maintain Safety standards.

- Audience members identified the lack of a clear value proposition for new players relative to incumbents and concerns about Safety and Security as the largest risks to investing in new Fin Tech payments companies.

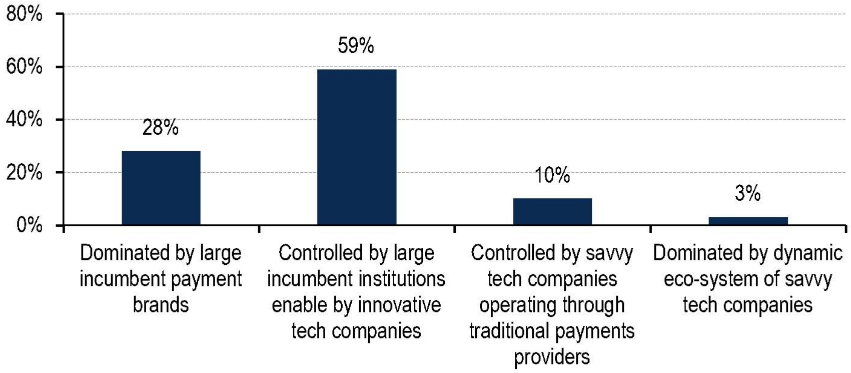
**Chart 77: What is the primary risk to investing in new entrants within the payments landscape?**



Source: BofA Merrill Lynch Global Research

- Panelists generally thought the best way for a new Fin Tech companies to succeed was by partnering with incumbents. This was consistent with the views of audience members, a majority of whom thought the payments industry would continue to be controlled by incumbent institutions partnering with innovative tech companies.

**Chart 78: What do you believe will be the structure of the payments industry in 5-7 years?**



Source: BofA Merrill Lynch Global Research

- Panelists highlighted that while recent innovations in faster payment transfers have been focused on P2P applications, the B2B opportunity is 7-10x larger. That said, panelists thought, based on experience in the UK, the cost of faster payments would likely have to be borne by the existing payment infrastructure as consumers have not been willing to pay for faster transfers. Additionally, panelists pointed out that in countries where faster payments have been implemented, it has mostly been a mandate by regulations suggesting the government has an important role to play.

- Panelists highlighted Security and Compliance as being essential for a new Fin Tech company to be admitted as part of the industry ecosystem. Incumbent payment companies will only partner with a new FinTech company that can meet the safety and regulatory standards that the incumbent is required to meet.

## Robo Advisors: Shedding Light on the Potential Opportunity

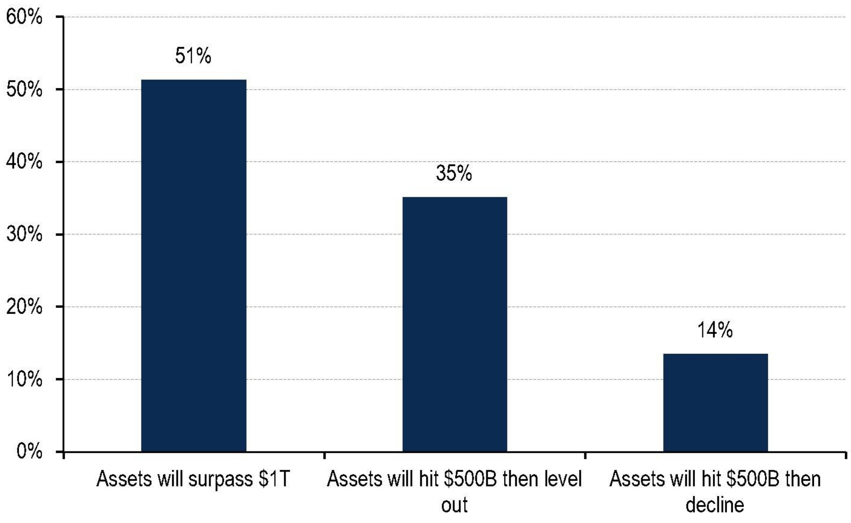
- Guest speakers in this panel included Eli Broverman (Co-Founder and President of Betterment), Randy Sternke (Vice President, Business Development at Alkanza), and Vaughn Bowman (Director, Managed Solutions Channel Management at BofAML). Each firm discussed the unique aspects of their individual business models and where they see the robo industry headed in the future.

- Broverman brought up several key points on how the independent robo advisor model came about and why it will continue to grow in the future. He believes that the main drivers include a lack of quality advice for investors with few assets, investors' beliefs that financial institutions are not aligned with their interests or transparent, and the fact that people want financial services to work as well as the other technology in their lives. Broverman believes that the biggest opportunity going forward is in the mass affluent segment and the 401K space.

- Alkanza is focused on providing robo capabilities to financial advisory firms through partnerships, rather than directly to consumers, with a focus on the platform as well as portfolio construction.

- We surveyed the audience to gauge their views on the potential size of the robo advisor market and the most common answer was that assets will surpass $1T, followed by assets will hit $500B and then level out.

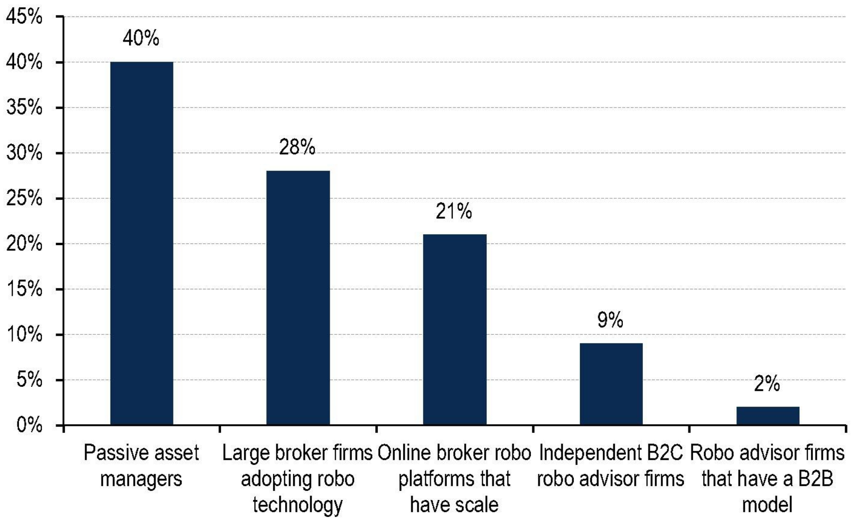
**Chart 79: How significant do you think robo advisor platforms will become over the next 3-5 years?**



Source: BofA Merrill Lynch Global Research

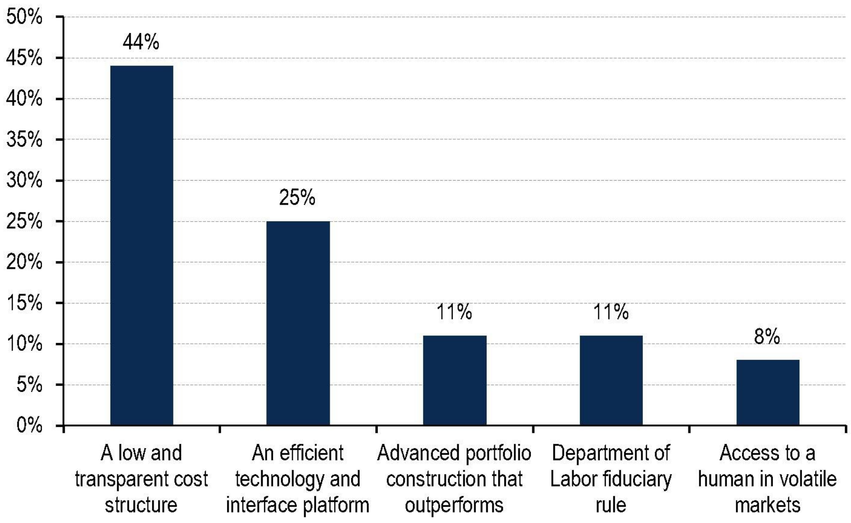
- Based on our polling questions, investors believe that the main beneficiaries of the robo advisor trend will be the passive asset managers (40%), followed by the large broker firms adding robo technology (28%) and the online brokers that have scalable robo platforms (21%). They also believe that the main driver of success for robo advisors will be a low and transparent cost structure (44%), followed by an efficient technology and user interface (25%).

**Chart 80: Which firms will benefit the most from the robo advisor trend?**



Source: BofA Merrill Lynch Global Research

**Chart 81: What do you expect to be the main driver of success for robo advisors?**



Source: BofA Merrill Lynch Global Research

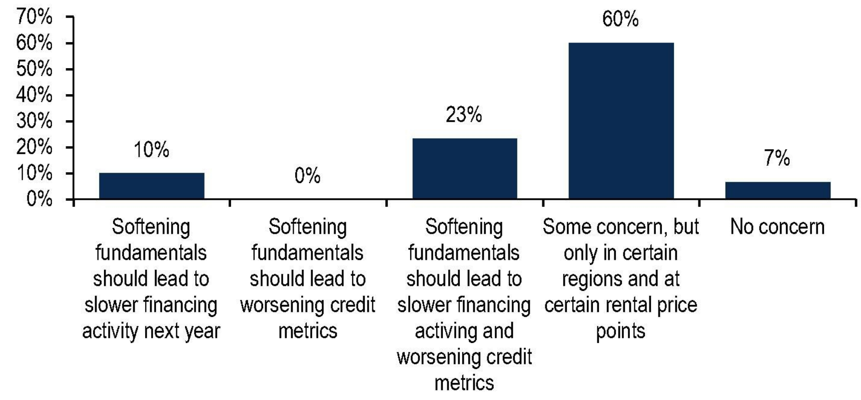
- Finally, all of the panel participants believe that the DOL Fiduciary Rule will not be repealed by the new administration, although it may be delayed. In the end, this should benefit robo advisors, as most of the models have low fee structures and limited conflicts of interest.

## State of the Multifamily Market: Cooling or Collapsing?

We hosted a panel to discuss the state and the outlook for the multifamily market following a year which has witnessed increased investor anxiety around multifamily loan growth and heightened scrutiny by banking regulators of multifamily loan portfolios, particularly at banks with a high concentration of multifamily loans. Our panelists included **John Jardine, Co-CEO of Ares Commercial Real Estate Corp, David Brickman, Executive Vice President and the Head of Multifamily business at Freddie Mac** and **Alan Fishman, Chairman of the Board at commercial real estate investment trust Ladder Capital.**

- **Multifamily on solid footing:** The panelists view the multifamily market as having a solid foundation with most of the risk lying at the high end, class A properties in particular markets (New York, San Francisco). Even here, the panelists agreed that the issues at the high end segment were more likely to manifest themselves in the form of decelerating growth in rents (and increased incentives by landlords) as opposed to serious credit issues. Investors echoed this sentiment during a live audience poll with 60% of the investors seeing issues in the multifamily market limited to certain regions and at certain rental price points.

Chart 82: How do you view fundamentals for multifamily lending in 2017?



Source: BofA Merrill Lynch Global Research

- **Future demand in multifamily promising:** Looking forward, the panelists see healthy demand for multifamily housing given a preference among millennials to live in urban areas versus the suburbs. Moreover, the panelists noted that increasing debt burden tied to student loans is likely to make home ownership out of reach for several first time home buyers. Furthermore, it was noted that the US needs 1.5mn new housing units each year and the present level of construction activity was not keeping pace with this when looking at it on a national level.

- **Foreign capital part of the equation:** Some of the panelists are seeing a significant flow of foreign capital into the multifamily market with Mr. Brickman surmising that data around inflow of foreign capital into the commercial real estate market was likely understated given that significant amount of inflows have come indirectly through investment vehicles like private equity.

- **Risk retention rules modest impact**: Our multifamily panelists viewed the risk retention rule for CMBS as having a modest impact given the large role played by the GSEs in lending to the multifamily space. It was also noted that while the rule may dampen private securitization activity, less competition from the CMBS markets would be a positive for balance sheet lenders.

- **Impact from rising rates may not be all news**: While the panel acknowledged that the rise in interest rates will likely push cap rates higher, an increase driven by a more favorable growth outlook may not be as bad. This is because a stronger economy should theoretically lead to a better backdrop for jobs and wage growth, thereby providing landlords some leeway to raise rents.

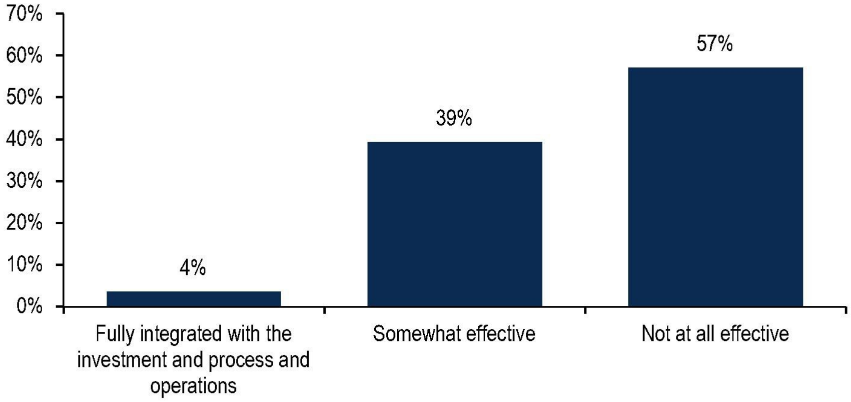
## The Future of Big Data in Financials

We hosted a panel to discuss how big data is impacting the financial services industry. The panel discussed key big data buzzwords including machine learning, data scientist, structured data and unstructured data. They panel also reviewed how different firms are adapting big data solutions to solve specific company issues. Our panelists included **Jessica Donohue, the Chief Innovation Officer for State Street and the head of advisory and information solutions for State Street Global Exchange, Greg Michaelson, head of data science practice at Data Robot, and Sandeep Saini, head**

**of global markets sales, research, and capital markets technology at Bank of America Merrill Lynch.**

- **How big data can influence the future**: The panel confirmed the notion that there are many different definitions for big data, but everyone seemed to agree almost all financial firms are seeking effective ways to implement big data techniques to 1) generate alpha, 2) manage risk 3) manage expenses.
- **Companies polled are a long way from benefitting big data**: 96% of the audience polled said their firm is either somewhat effective or not at all effective at using big data. Some of the main challenges the panelists highlighted during our discussion were merging multiple legacy data systems and finding attractive talent with both data science and business experience.

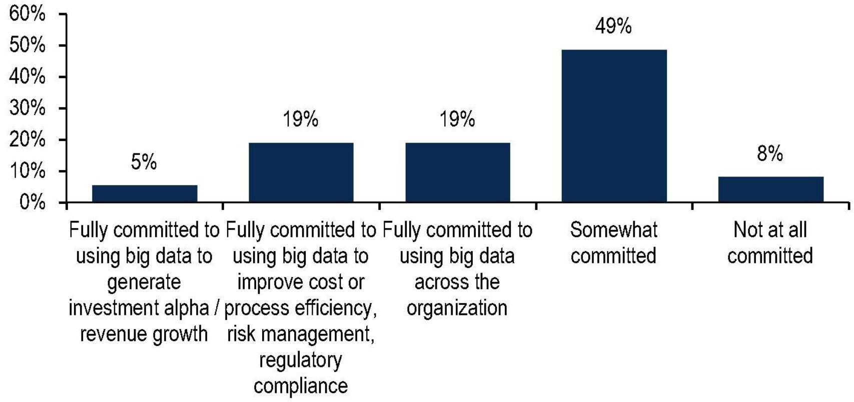
**Chart 83: How effective is your firm at using big data?**



Source: BofA Merrill Lynch Global Research

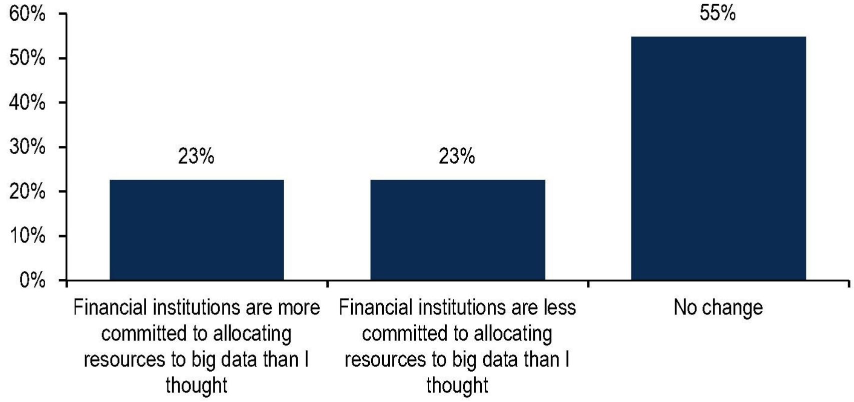
- **The panel discussed three roles needed to solve data science problems**: 1) someone who has sway to make change and implement solutions 2) business champion, someone to discuss solutions with technical employees and to share knowledge on key issues such as regulation 3) technically savvy employees.
- **Implementation advice:** The panel provided advice for firms that have yet to utilize big data to attempt to solve problems facing their companies. The advice included seeking problems that could be solved using data science and focusing on small wins with the data present.

**Chart 84: Now that we've defined "big data", how far do you think financial institutions are at embracing the use of big data today?**



Source: BofA Merrill Lynch Global Research

**Chart 85: After this conversation, have you changed your mind on how financial institutions are adopting big data in their businesses?**



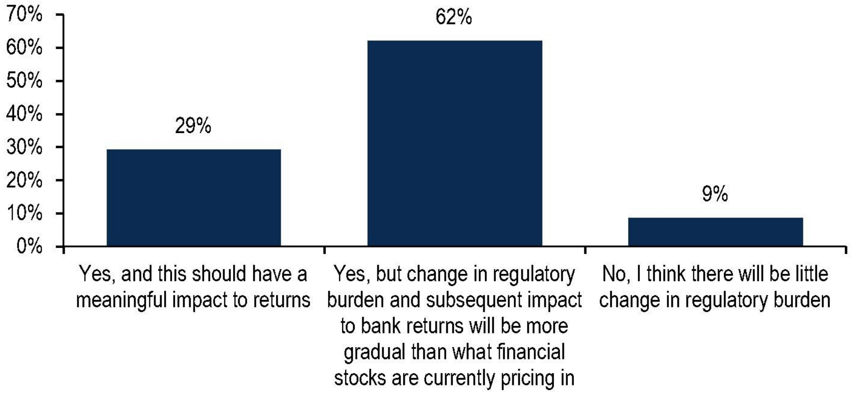
Source: BofA Merrill Lynch Global Research

## The Future of Financials M&A and Regulation

We hosted a panel to discuss the state and outlook of M&A and regulation. Given the results of the US election and the potential for easing of regulations, the panel discussed a timely topic on the mind of investors. Our panelists included **Rodgin Cohen, Senior Chairman of Sullivan & Cromwell; Richard Kim, partner at Wachtell, Lipton, Rosen & Katz**, and **Ed Hill, Senior Vice President, Government Affairs, Bank of America Corporation.**

- **Regulation is about tone**: Our panelists agreed that the scope and strength of regulation comes from the tone and attitude of regulators rather than from legislation. They noted that an attempt to repeal legislation such as Dodd-Frank would be misplaced as most direction derives from the tops of regulatory bodies. They also felt Senator Hensarling's Financial Choice Act would not be a better alternative to Dodd-Frank given the 10% leverage ratio is not a Federal Reserve definition of leverage. Utilizing a Fed definition would likely lead to leverage north of 10%. The inclusion of CAMEL ratings with the leverage ratio would also allow regulatory sway over institutions.

Chart 86: Following last week's GOP sweep, do you think regulatory relief is in the cards for the financial services industry?

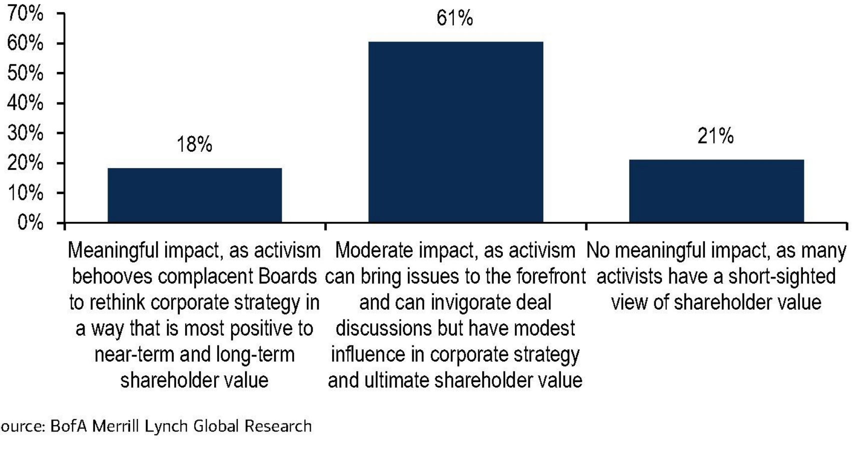


Source: BofA Merrill Lynch Global Research

- **CCAR a product of regulatory attitude:** The panelists agreed that CCAR in its current form is not a result of legislation as post-recession bank stress tests (SCAP) existed prior to Dodd-Frank. Furthermore, the panelists noted Dodd-Frank's definition of a stress test is very basic, which has been made more stringent and complex as a result of regulators. Mr Cohen also noted that a lack of transparency of the test was the least defensible part of CCAR.

- **Biggest obstacle for bank M&A and activist influence is regulation.** Despite headlines of increased shareholder activism within the banking industry, the majority of investors polled (61%) believe activist investors have only a moderate impact on corporate strategy (see chart). Specifically, Mr. Cohen explained that two of the three reasons why an activist will typically get involved with a corporate are difficult to achieve on a bank's board given the level of regulatory oversight on the industry. While selling the bank is the one area where activists have had success, this typically occurs at the community bank level. That said, he believes a change in attitude of regulators could free up M&A activity.

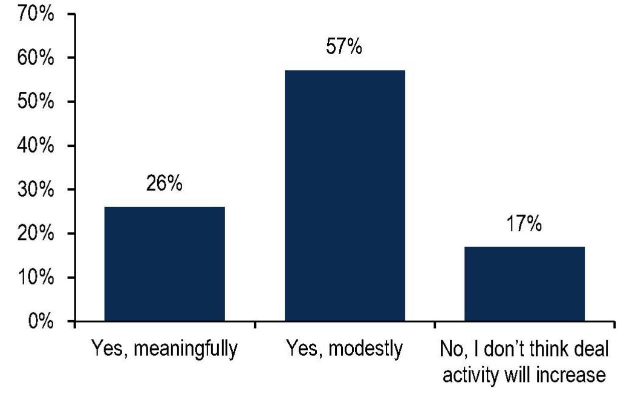
Chart 87: What kind of impact does an activist investor have in corporate strategy and ultimate shareholder value?



Source: BofA Merrill Lynch Global Research

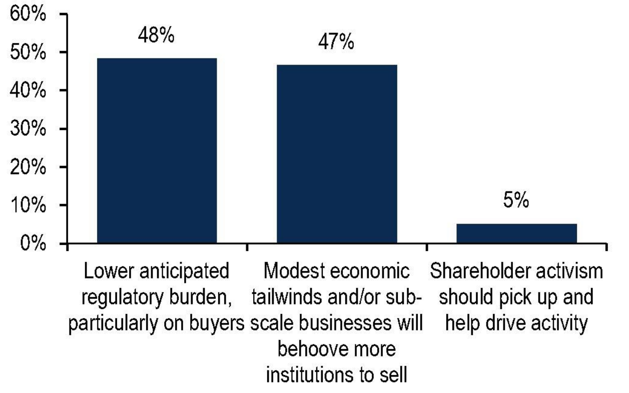
- **How to do M&A right**: When describing acquisitions that most impressed the panelists, a key reason for success was the acquirer keeping the target management in place as well as giving the target management independence. The scope and planning of the integration was also critical for success.

Chart 88: Do you think M&A activity in financial services will pick up in 2017?



Source: BofA Merrill Lynch Global Research

Chart 89: If you voted yes, what statement closely matches your rationale?



Source: BofA Merrill Lynch Global Research

## Understanding the Changing Fixed Income Markets

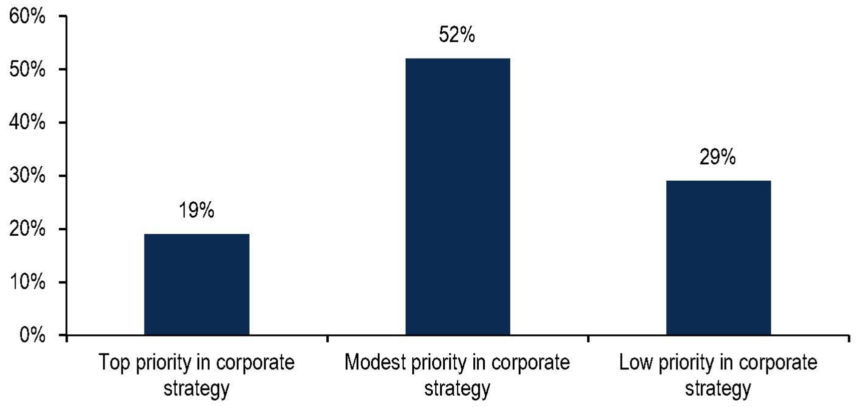
We hosted a panel to discuss the evolution of the fixed income market structure given the advent of electronic trading and regulatory construct. Our panelists included **Lee Olesky (co-founder and CEO of Tradeweb), Adam Brown (Head of US Rates Electronic Trading at BofAML)** and **Brian Callahan (Head of US Par Loan Trading and the head of Electronic Initiatives for Global Credit and Special Situations at BofAML).**

- **Electronification of fixed income markets steadily growing; however, lag European market**. Electronic trading came to fixed income trading in the late 1990's as a way of automating transactions (i.e. create a more efficient process between parties). Today in the US, the investment grade market is 16-20% electronic, the high yield market is 8% (has doubled over the last few of years), the treasury market (which has been growing steadily over last 10-15yrs) is 80-90% of the actual trade count is electronic. While the electronification of the derivative market was slower to evolve, recent regulatory reform has accelerated the electronification process (50% today). That said, while the evolution towards electronification in the US continues to grow, the European bond market is actually more advanced with nearly 50% of the bond market automated (vs. 20% for the US).

- **Regardless of possible regulatory relief, electronification may slow but won't end entirely**. While a partial repeal or lightening of Dodd-Frank would be a net positive for the financial markets, and possibly lower the costs to banks and end-users, Mr. Brown doesn't see a dramatic effect on the market structure. In other words, regulatory relief may only slow down the electronification progress.

- **Electronification within the fixed income market is a modest priority among asset managers**. Fifty-two percent (52%) of the audience polled believe it to be a modest priority in their own corporate strategy to embrace new technologies/electronification in fixed income. Mr. Brown was not surprised by the results as many of the asset managers have their own constraints from technology funding to regulatory issues to running the day-to-day business. While electronification is something that pays dividends, these benefits occur over time. That said, general sentiment from asset managers is that electronification is something they want as it leads to efficiency.

**Chart 90: As you think about corporate strategy for asset managers, how open is your firm with embracing new technologies/electronification in the fixed income space?**



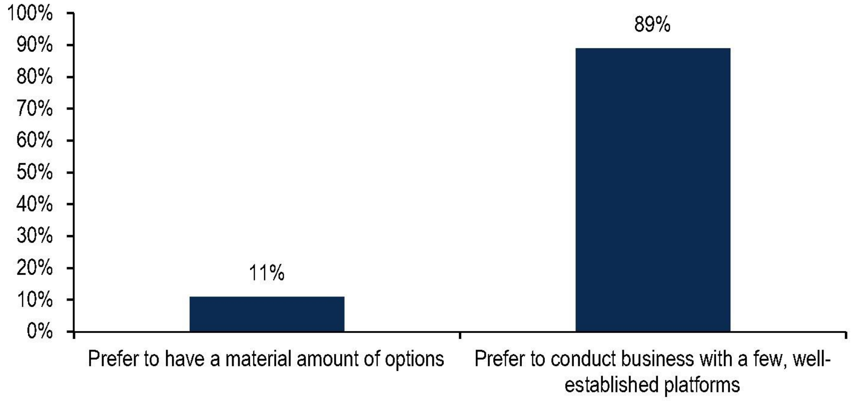
Source: BofA Merrill Lynch Global Research

- **ETF market for fixed income securities expected to grow significantly**. Unlike in the equities market where ETFs are 7% of the volume traded, fixed income ETFs are still sub-1% (0.8% at YE15). As the market continues to grow, particularly in the asset classes where the underlying bonds aren't that liquid, Mr. Callahan noted seeing increased liquidity in the ETFs for liquidity reasons. Following in the footsteps of the equities market, Mr. Callahan expects the fixed income ETF market to grow significantly and be very impactful to the overall market structure.

- **Greater concern around speed at which liquidity can change vs. liquidity in the market**. There is a lot of concern around liquidity in fixed income markets. That said, Mr. Brown is more concerned with the speed at which liquidity can change. There has been growing evidence that the market is going to adjust greater and faster than the underlying fundamental reasons for the correction. As such, this is causing participants to revisit how they look at risk management. Now market participants need to take into account not only their behavior, but their reaction to other participants' behavior (i.e. contagion effect).

- **Fewer, well-established platforms reduce overall risk within system**. Eighty-nine (89%) percent of the audience polled prefer to conduct business with a few, well-established platforms to diminish risk within the system. Using the government bond market as an example, Mr. Olesky points out that the growing contribution from PTFs to the overall treasury trade volume has increased the risk outside the primary-dealer system. This is a risk Mr. Olesky believes needs to be addressed and prefers a central clearinghouse for fixed income transactions.

**Chart 91: As you think about platform management, what is your view on having multiple options of liquidity providers?**



Source: BofA Merrill Lynch Global Research

**Table 1: PO Changes**

| Firm | Rating | QRQ | Current Price | Old PO | New PO |
|---|---|---|---|---|---|
| ASB | UNDERPERFORM | B-3-7 | $22.45 | $19.00 | $20.00 |
| BANC | NEUTRAL | C-2-7 | $14.80 | $18.50 | $15.50 |
| BBT | BUY | B-1-7 | $42.82 | $41.00 | $45.00 |
| BKU | BUY | C-1-7 | $34.19 | $36.00 | $37.00 |
| BOH | UNDERPERFORM | B-3-7 | $85.67 | $64.00 | $75.00 |
| C | BUY | B-1-7 | 54.63 | $55.00 | $60.00 |
| CBF | BUY | C-1-7 | $35.80 | $35.00 | $38.00 |
| CBSH | NEUTRAL | A-2-7 | $56.39 | $53.00 | $60.00 |
| CFG | BUY | B-1-7 | $30.73 | $28.00 | $33.00 |
| CFR | UNDERPERFORM | B-3-7 | $82.93 | $70.00 | $74.00 |
| CMA | UNDERPERFORM | B-3-7 | $59.21 | $49.00 | $55.00 |
| EWBC | BUY | B-1-7 | $45.64 | $45.00 | $50.00 |
| FBP | NEUTRAL | C-2-9 | $6.29 | $6.00 | $6.50 |
| FCB | BUY | C-1-9 | $39.75 | $44.00 | $44.00 |
| FHB | NEUTRAL | C-2-7 | $29.48 | $28.00 | $31.00 |
| FHN | UNDERPERFORM | B-3-7 | $17.97 | $14.50 | $16.00 |
| FITB | NEUTRAL | B-2-7 | $24.90 | $23.00 | $26.00 |
| FSB | NEUTRAL | C-2-9 | $33.80 | $40.00 | $36.00 |
| GS | BUY | B-1-7 | $206.26 | $195.00 | $230.00 |
| GWB | BUY | B-1-7 | $38.85 | $38.00 | $42.00 |
| HBAN | BUY | C-1-7 | $11.93 | $12.00 | $13.00 |
| HBHC | NEUTRAL | B-2-7 | $39.05 | $35.00 | $41.00 |
| IBKC | BUY | B-1-7 | $78.05 | $74.00 | $85.00 |
| JPM | BUY | B-1-7 | 77.40 | $74.00 | $83.00 |
| KEY | BUY | B-1-7 | $16.73 | $17.00 | $18.00 |
| MS | BUY | B-1-7 | $39.19 | $36.00 | $43.00 |
| NYCB | BUY | C-1-8 | $15.36 | $17.00 | $17.00 |
| PB | UNDERPERFORM | B-3-7 | $64.38 | $50.00 | $58.00 |
| PNC | BUY | B-1-7 | $107.51 | $100.00 | $110.00 |
| RF | NEUTRAL | B-2-7 | $12.89 | $11.00 | $13.00 |
| SBNY | BUY | B-1-9 | $147.02 | $140.00 | $160.00 |
| SIVB | BUY | B-1-9 | $147.35 | $140.00 | $165.00 |
| SNV | NEUTRAL | C-2-7 | $38.01 | $35.00 | $40.00 |
| STI | BUY | B-1-7 | $50.79 | $48.00 | $53.00 |
| TCB | UNDERPERFORM | B-3-7 | $16.23 | $13.50 | $14.00 |
| TCBI | NEUTRAL | C-2-9 | $70.75 | $62.00 | $74.00 |
| UMBF | BUY | B-1-7 | $72.04 | $65.00 | $78.00 |
| USB | NEUTRAL | B-2-7 | $47.87 | $45.00 | $50.00 |
| WFC | BUY | B-1-7 | 51.68 | $50.00 | $55.00 |
| ZION | UNDERPERFORM | C-3-7 | $37.46 | $30.00 | $36.00 |

Source: BofA Merrill Lynch Global Research

## Price objective basis & risk

**AllianceBernstein (AB)**

Our $25 price objective is based on 13x target P/E on our '17E, a discount vs our target for asset managers as a group, based on improving but inconsistent flows and limited active equity exposure as well as the MLP structure which means less liquidity, though a high distribution. Upside/downside risks to our price objective are market appreciation/depreciation, similar to other asset managers, underperformance, and an unpredictable yield since it is based on earnings rather than fixed. Because Alliance is an MLP, total potential return includes a variable distribution based on earnings.

**Amer Express (AXP)**

Our $74 price objective reflects a 13x PE multiple to our 2017 EPS estimate. Given the elevated uncertainty, we expect AXP will trade near the low end of its historical valuation range, which averages 12x-16x. This multiple reflects our view of solid loan growth and better billings, offset by increased risks of rising credit and marketing costs. We think the market will view AXP through a more credit card lens in the near-term, which also supports a multiple at the low end of the historical range.

Upside risks to our PO are stronger than expected macroeconomic conditions, accelerating consumer and business spending, lack of disruptions in capital markets, or a decreasing regulatory burden. Downside potential could come from weaker than expected macroeconomic conditions and renewed recessionary pressure, softer consumer and business spending, disruptions in capital markets, or an increasing regulatory burden.

**Ares Management (ARES)**

Our price objective (PO) for Ares is $18, which implies a target price-to-ENI (P/ENI or P/E) multiple of 11x our 2017 ENI estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis includes the following components: a target multiple on fee related earnings (15x - in line with or a premium to asset manager multiples given healthy growth and sticky assets), book value for the balance sheet investments and accrued carry, and a discounted value on the performance fee upside over a cycle (1.3x MOIC). Based on this method, we value the fee related earnings at $13/unit, the balance sheet (principal investments and accrued carry) at $4/unit, and the discounted value of future carry income and investment income at $1/unit, which equates to a total value of $18.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in tax laws related to carried interest and partnerships, legal and political risk, increased regulation, credit market disruptions, poor performance, weak fundraising, expansion risk, key person and talent risk, competition, a unique corporate structure that limits unitholder control, and lock ups.

**Associated Banc-Corp (ASB)**

We use an equal weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $20 price objective and assign a 1.4x multiple to 3Q17E TBV and a 14.9x 2017 P/E multiple, in-line with smid-cap peers due to their near median return profile. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 5%. The upside risk to our price objective is a less onerous residential RE cycle. Downside risks are a double dip in housing prices, deteriorating energy portfolio and falling rental income for commercial properties.

**Banc of California (BANC)**

To arrive at our $15.50 price objective, we have employed a three-factor valuation methodology that incorporates target P/E, target P/TBV and a DCF model. For our P/E analysis, we use a 14x earnings multiple on BANC's 2017E core earnings below peer multiples due to lagging EPS growth. For our P/TBV valuation, we apply a 1.2x tangible book multiple to BANCs 2Q17E tangible book below peer multiples due to lagging ROTE. For our DCF analysis, we forecast net income growth stabilizes at 3% in the terminal stage. We also assume a beta of 1.1x in the terminal stage.

Downside risks to our price objective are slower than expected loan growth, and a reduction in the common dividend.

**Bank of Hawaii Corp. (BOH)**

We use an equal weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $75 PO and assign a 2.2x multiple to 2Q17E TBV, representing a premium to peers, which we believe is appropriate given a stronger profitability and capital profile. Our 17x multiple on 2017E EPS is equal to the the peer median given average EPS growth relative to peers. Our DCF assumes a two-stage cost of capital of 9.8% and a terminal growth rate of 3%.

Downside risks to our price objective are a longer-than-anticipated low rate environment and a reversal of local economic improvement. Upside risks are a stronger-than-expected economic rebound, better-than-expected capital distribution and a shorter-than-anticipated low rate environment.

**BankUnited, Inc. (BKU)**

To arrive at our $37 price objective, we have employed an equal-weighted three factor valuation methodology that incorporates target P/TBV, P/E and DCF. We have applied a target P/TBV value multiple of 1.5x on our 2Q17E TBV and a P/E target multiple of 16x '17 EPS, based on BKU's above average growth relative to peers. Our DCF assumes a two-stage cost of capital of 7.9% and 9.3% and a terminal growth rate of 6%.

Downside risks to our price objective are slower CRE loan growth on the back of regulatory oversight, as well as an inability to deploy excess capital, increased competition for Florida M&A and an inability to continue to implement an organic growth strategy in New York City.

**BB&T Corporation (BBT)**

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $45 PO and assign a 1.6x multiple to 2017E TBV and 14.5x multiple on 2017E EPS. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Our EPS multiple is in-line with BBT's historical avg, which reflects very high-growth years in the 1990s, a pace unlikely to be achieved near term given BBT's size as well as the challenging macro backdrop and industry headwinds. Our DCF assumes a two-stage cost of capital of 9.7% and 10.9% and a terminal growth rate of 4%.

Risks to our price objective are macro risks such as a double dip recession, the implementation of a strict liquidity coverage ratio and further regulation on overdraft income that restricts bank profitability. Specific to BBT, risks are enhanced regulatory scrutiny and capital standards as a Domestic SIFI, the announcement of a large, expensive deal, and the risk that the NPBC transaction does not consummate.

**Capital Bank Financial Corp. (CBF)**

Our $38 PO is based on an equal-weighted, two-factor valuation methodology that assumes: We assumes a 20.0x P/ 2017e EPS and a target P/TBV of 1.6x to 2017E tangible book given our forecast above peer EPS growth.

Downside risks to our PO are an inability to deploy excess capital and create value through acquisitions.

**Citigroup Inc. (C)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $60 PO, assigning a 0.9x multiple to 2017E TBV and 11x multiple on '17E blended NA and EM earnings. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Near term, we view C's current market multiple as overly discounted, but expect money center banks will likely continue to trade at a discount to the regionals. Our 1x TBV multiple represents a 0.3x discount to our median multiple for our universe. Our discount to TBV is a reflection of the earnings drag from Holdings and the fact that money centers will most likely continue to trade at a discount to regional peers. Our 11x 16E multiple is based on a sum of the parts analysis, where we apply a 10.5x multiple, on all operations ex. Lat Am and Asia GCB. We then apply a 11x multiple on Lat Am and Asia GCB to represent the earnings growth for consumer banking in emerging markets. Lastly, we deduct the earnings drag from Holdings. Our DCF analysis assumes a 5% growth rate and two stage cost of equity of 13%.

Risks to our PO are macro risks such as a slower than expected rate of fed hikes, and economic downturn and further scrutiny of the financials industry. Specific to C, risks are enhanced regulatory and capital standards as a Global SIFI, slower wind-down on Citi Holdings than expected, and slower-than-expected growth in the emerging markets and potential fines.

**Citizens Financial Group (CFG)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $33 price objective and assign a 1.2x multiple to our 2017E TBV in-line with other asset sensitive peers. We place a 15x multiple on our 2017E EPS, also in-line with its asset sensitive peer group. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 5%.

Downside risks to our price objective are: 1) a significantly delayed Fed rate hike leading to pressured revenue growth, 2) higher losses associated with CFG's consumer oriented loan portfolio, and 3) a quicker than expected credit normalization.

**Comerica Incorporated (CMA)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $55 PO, and assign a 1.2x multiple to 2017E TBV (in line with the median energy-exposed peers) and 16x multiple on 2017E EPS due to below peer EPS growth and ROTE. We have weighted the P/E and P/TBV factors equally at 33%, and our DCF analysis by 33%. Our DCF assumes a two-stage cost of capital of 12.3% and 10.5% and a terminal growth rate of 5% and Tier 1 common of 8% at termination.

Downside risks to our PO are a more severe than expected impact from lower energy prices, or a slower than expected rate of fed hikes. Upside risks are a better than expected rebound in energy prices and sooner recognition of cost saves.

**Commerce Bancshares Inc. (CBSH)**
We use an equal-weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $60 PO and assign a 2.2x multiple to 2Q17E TBV, representing a premium to peers, given higher-quality earnings and capital position. Our assigned 18x multiple on 2017E EPS is at a premium to peers due to higher earnings quality. Our DCF assumes a terminal cost of equity of 9%, and a terminal growth rate of 3%.

Downside risks to our price objective are regulatory headwinds, or longer-than-anticipated low-rate environment. Upside risks are a stronger-than-expected economic rebound, better-than-expected capital distribution and a potential takeout above our price objective.

**Cullen/Frost Bankers Inc (CFR)**
To arrive at our $74 price objective, we employed a three-factor valuation methodology that incorporates target P/E, target P/TBV and a DCF model. For our P/E valuation, we apply a 15x earnings multiple on CFR's 2017E core earnings. For our P/TBV valuation, we apply a 1.7x tangible book multiple to CFR's 2017E tangible book. Both multiples are lower than peers for CFR due to EPS headwinds and rising credit costs from lower energy prices. For our DCF analysis, we use a net income growth of 3.0% and assume a beta of 1.0 in the terminal stage.

Upside risks to our PO: a sharp rebound in oil prices, higher than expected interest rates, stronger loan growth, better than expected credit performance of CFR's energy loan portfolio. Downside risks: A worse than expected decline in Texas economic growth that impacts CFR's balance sheet growth, a slower than expected pace or rate hikes and a worse than expected sell off in oil prices.

**East West Bancorp, Incorporated (EWBC)**
Our three-pronged valuation methodology (target P/E, target P/TBV, and DCF analysis) drives our price objective of $50. We assumes a 16.0x P/ 2017e EPS and a target P/TBV of 2.0x to 2Q17E tangible book given our forecast above peer EPS growth. Our DCF assumes a two-stage cost of capital of 9.5% and a terminal growth rate of 3% Upside risks to our PO are a quick economic recovery (led by stabilization or appreciation in CA housing values) or a faster than expected recovery in China. Downside risk to our PO is an even deeper economic slowdown driving corporate losses higher than we currently anticipate, faster than expected normalization in credit.

**Eaton Vance (EV)**
Our $35 price objective is based on a target P/E of 15x calendar 2016E (14x '17E), at a discount to our asset-manager group target multiple, given recent outflows from high fee products, offset by distinct products in areas such as floating rate and overlay.

Downside risks to our price objective are market depreciation and investment under-performance, as for all asset managers, and (should the economy slow) concentration in some credit areas, such as bank loan funds, high yield and longer-duration munis. Upside risks are improving performance, flows, or future traction from EV's ETF licensing initiative.

**FCB Financial Holdings, Inc (FCB)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $44 price objective and assign a 1.6x multiple to our 2017E TBV given that we believe the market would pay a 0.3x premium for FCB's 2016 estimated returns in line with the median premium of its peer group (Florida banks, High Growth, Bank Acquisition, and SMIDs). We place a 18x multiple on our 2017E EPS, a premium to its SMIDs peers given our outlook for stronger EPS growth. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.
Downside risks to our price objective are a deterioration in credit quality in FCB's unseasoned newly originated loan portfolio, a downturn in the Florida economy, and continued competition for C&I loans. Upside risks are a better than expected improvement in its return profile and a much stronger economic improvement in the Florida economy.

**Fifth Third Bank (FITB)**
Our PO of $26 is predicated on target P/E multiple of 15x to reflect higher confidence in FITB achieving most of its profit improvement goals related to Project North Star. This represents a modest premium versus peers. Downside risks to our PO are a prolonged low interest rate environment, expensive M&A and slower than guided loan growth on weaker economic activity.

**First Bancorp Puerto Rico (FBP)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $6.50 price objective. We assign a 1.0x multiple to our 2Q17E TBV, below the 1.6X for peers, due to the overhang of PR fiscal issues that may reduce TBV. Our revised implied 2Q17E TBV of 1.0x is consistent with a 5% ROE. We assign a 10x multiple to our 2017E EPS, in line with peers. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are a worse-than-expected restructuring of PR government debt, deterioration in the Puerto Rican economy that could hurt the ongoing credit and earnings recovery at FBP, a change in management's strategy to dispose troubled assets, and potential regulatory risk stemming from the ongoing implementation of the Dodd-Frank financial rules. Upside risks to our price objective are a much stronger economic improvement in Puerto Rico and a better-than-expected improvement in asset quality trends at FBP.

**First Hawaiian Inc. (FHB)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $31 PO and assign a 2.2x multiple to 2017E TBV and 17x multiple on 2017E EPS, representing premium target multiples for the median smid-cap banks under coverage. We have weighted the P/E and P/TBV factors equally.

A superior profitability profile suggests an above peer multiple. Our DCF assumes a two-stage cost of capital of 8% and a terminal growth rate of 4%.

Risks include 1) FHB's reliance on the Hawaiian economy with 80% of the franchise spread across Hawaii, Guam, and Saipan poses downside risk to EPS from a severe economic downturn in this region. 2) While FHB has a history of conservative underwriting its exposure to auto loans could serve as an overhang if investor concerns around the health of the auto sector and consumer increase. 3) Expectations for continued divestiture by French bank BNP (owns 82% of shares o/s) could temper stock performance.

**First Horizon National Corp. (FHN)**
We use a three-prong valuation framework (P/E, P/TBV, DCF) to arrive at our $16 price objective and assign a 1.5x multiple to 2Q17E TBV and a 14x multiple to 2017E EPS (inline with median for our mid-to-small cap universe). We believe that this valuation discount is warranted given the below average earnings growth that we forecast for FHN. Our P/TBV and P/E targets reflect our expectation that earnings growth and profitability will remain challenged by a low growth low interest rate environment. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 5%.

Downside risks to our price objective are a double dip in home prices and slower residential real estate recovery. Upside risks are FHN being taken out above our price objective and better performance in the economy than we expect.

**Franklin Financial Network, Inc. (FSB)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $36 price objective and assign a 1.8x multiple to our 2Q17E TBV, given that we believe the market would pay no premium for FSB's 2016 estimated returns of 14%, below the median of its peer group (High performing, Southeast peers, and SMIDs). We place a 14x multiple on our 2017E EPS, a premium to its peer group given above average expected EPS growth. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are: 1) execution risk leading to slower than expected loan growth or lower than expected improvement in the efficiency ratio, 2) downturn in the local real estate markets affecting Franklin's construction loans and increasing credit costs via higher charge-offs and provisions, and 3) inability to effectively fund asset growth driving greater than expected compression in the net interest margin.

**Goldman Sachs (GS)**
We value the brokers based on the relationship between ROE (return on equity) and PB (price to book), which has a high historical correlation. Our $230 PO is based on a target PB multiple of 1.2x our forward book value estimate, which is above our 2017E ROE of roughly 10% as we add in higher interest rate expectations and loosening regulations into our multiple.

Risks to the downside are a weaker economy/capital markets, increased macro issues, tougher regulation, and litigation, while risks to the upside are a stronger economy, moderating macro risks, market share gains, and less onerous regulatory and legal issues.

**Great Western Bancorp Inc (GWB)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $42 price objective and assign a 2.0x multiple to our 2Q17E TBV given that we believe the market would pay premium for GWB's 2016 estimated returns of 15%, in line with the median premium of its peer group (High performing, Midwest peers, and SMIDs). We place a 16x multiple on our 2017E EPS, a premium to its peer group given higher quality earnings. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are a prolonged downturn in the farm sector and lower for longer interest rate environment. Upside risks are a better than expected improvement in the farming industry and a much stronger economic improvement in the Midwest economy.

**Hancock Holding (HBHC)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $41 price objective. We assign a 1.5x multiple to our 2Q17E TBV, in line with SMID-cap peers based on their in-line return profile, and this translates to $35.75. We place a 14.5x multiple on our 2017E EPS, in line with other peers based on forecasted EPS growth, for $33. Our DCF assumes a two-stage model with terminal growth rate of 3.5% and a cost of capital of 8.5% to derive our $35 PO.

Downside risks to our price objective are regulatory issues, slowing growth and if M&A synergies do not materialize. Upside risks are better than expected cost saves, stronger loan growth that would lead to better than forecast spread revenue and lower credit costs.

**Huntington Bancshares Inc. (HBAN)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our PO of $13 and assign a 1.8x multiple to 2017E TBV and a 14x multiple on 2017E EPS, below historical multiples. This is due to more stringent capital standards and the negative fee income impact of pending regulatory reform. Our DCF analysis uses a cost of equity of 15.7% in the first stage and 11% in the second stage, and a terminal growth rate of 3%.

Risks to our price objective are an inability to offset regulatory fee income headwinds and integration risk associated with FMER. Other risks are an inability to return capital to shareholders in a timely fashion or overpaying for an acquisition target.

**IBERIABANK Corp (IBKC)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $85 price objective and assign a 1.6x multiple to our 2Q17E TBV, in line with multiples of other

high growth peers. We place a 16x multiple on our 2017E EPS in line with SMID peers. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 3%.

Downside risks to our price objective are worse than expected decrease in oil prices, regulatory issues, deteriorating credit quality, and if M&A synergies do not materialize. Upside risks are sooner than expected recovery in the oil price, faster than expected rate hikes or better than expected improvement in the US economy.

**Invesco (IVZ)**
Our $36 price objective is based on a target P/E multiple of 14x our 2017E, which is above IVZ's historical valuation relative to the group given expectations for superior organic growth. Risks to our price objective are market depreciation and investment underperformance, as for all asset managers, along with volatile flows in IVZ's passive strategies, non-US currency and market risk.

**JPMorgan Chase & Co. (JPM)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $83 PO, assigning a 1.5x multiple to 2017E TBV and 13x multiple on 2017E EPS. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Near term, we view JPM's current market P/E multiple as overly discounted, but expect money center banks will likely continue to trade at a discount to the regionals. Our 11x multiple is a 2x discount to our median multiple as we believe in the near future, money centers will continue to trade at a discount to regional peers. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 4%.

Risks to our price objective are macro risks such as a longer than expected low interest rate environment and further regulation and scrutiny of the financials industry. Specific to JPM, risks are enhanced regulatory and capital standards as a Global SIFI, mortgage putback risk, material decline in investment banking/trading profitability, and increased litigation on matters such as private label securitization, foreclosures, etc.

**Key Corp (KEY)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $18 PO and assign a 1.4x multiple to 2017E TBV and 15x multiple on 2017E EPS, in-line with its peer group due to near median profitability and EPS growth. Our DCF assumes a two stage cost of capital of 13.4% and 10.9% and a terminal growth rate of 5% and Tier 1 common of 8% at termination.

Downside risks to our PO are a prolonged low interest rate environment, greater than expected expenses, inability to maximize balance sheet efficiency, and the announcement of expensive deals.

**KKR & Co. (KKR)**
Our price objective (PO) for KKR is $17, which results in a target price-to-ENI (P/ENI or P/E) multiple of 10x our 2017 economic net income (ENI) estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis is based on the following components: a target multiple on fee related earnings (11x - discount to asset manager multiples given revenue mix), a discount to book value for the balance sheet investments and accrued carry given markets, and a discounted value on the performance fee upside over a cycle. Based on this method, we value the fee related earnings at $6/unit, the balance sheet (principal investments and accrued carry) at $9/unit, and the discounted value of future carry income and investment income at $2/unit, which equates to a total value of $17, in line with our price objective.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in tax laws related to carried interest and partnerships, regulatory and political risk, poor performance, weak fundraising, principal investment and balance sheet risk, expansion risk, key person and talent risk, competition, a unique corporate structure that limits shareholder control, and share lock-ups that could weigh on the stock.

**Legg Mason (LM)**
Our $36 price objective is based on a target P/E multiple of 12x our calendar '17E, a discount to the group, given financial leverage, muted flows, and deal/integration risk. Downside risks to our price objective: an equity sell-off or weakening flows, which would pressure AUM and revenues. A return to past under-performance at key affiliates is also a risk for Legg, given its fragile recovery and brand issues. Given their affiliate model there are integration risks. Upside risks to our price objective are better than expected equity markets, performance, or flows, or an accretive acquisition.

**Morgan Stanley (MS)**
We value the brokers based on the relationship between ROE (return on equity) and PB (price to book), which has a high historical correlation. Our $43 PO is based on a target PB multiple of 1.3x our forward book value estimate, which is above our 2017E ROE of roughly 8% as we add in higher interest rate expectations and loosening regulations into our multiple.

Risks are a weak economy, low rates for longer, a significant reduction in capital markets activity, weak returns, another shock to the financial system, ongoing competition and talent risk, tighter regulation, significantly higher capital requirements, and ongoing litigation risks.

**New York Community Bancorp (NYCB)**
Our price objective is $17 and we use a three factor valuation model equally weighing valuations using P/E, P/TBV and DCF models. To arrive at our P/E valuation, we assign a 14x multiple to our blended '17e EPS or inline with the median of other CCAR banks with $50-100bn in assets. To arrive at our P/TBV valuation we applied a 2.2x multiple to our 2Q17E TBV, a premium to NY/Thrift and smid cap peers given NYCB's superior return profile. We arrive at our DCF valuation using we assume a 2% terminal growth rate and a WACC of 8%.

Upside risks to our price objective are: 1) Change in SIFI threshold could drive a relief rally, 2) Lower for longer rate backdrop, and 3) A period of heightened market volatility.

Downside risks to our price objective are: 1) worse than expected impact on ROTE from increased capital standards from obtaining the SIFI designation and 2) higher than expected impact from increasing rates on funding cost.

**Prosperity Bancshares Inc (PB)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $58 price objective. We assign a 1.8x multiple to our 2Q17E TBV (40% weight) compared to 1.1x median of TX peers. We believe the 0.7x premium to Texas peers is warranted given PB's above average return on tangible equity (ROTE) profile. We place a 14x multiple on 2017E EPS, in line with historical P/E median (40% weight) net of accretable yield. Our DCF valuation ((20% weight) suggests a fair value of $45. Our DCF assumes a terminal growth rate of 3% and cost of capital of 9.9%.

Risks to our price objective are worse than expected drop in the price of oil, better than expected macro environment and increasing rates which offset the effects of lower oil prices, or inability to close an M&A deal due to regulatory or capital constraints.

**Regions Financial (RF)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $13 price objective and assign a 1.4x multiple to 2017E TBV and 14x multiple on 2017E EPS. Our

estimates imply RF would generate ROTEs of 10-11% in 2016-2017E, hence we find RF fairly valued at 1.3x TBV. Our 13x multiple is in-line with large regional peers. Our DCF assumes a two-stage cost of capital of 13.6% and 10.5% and a terminal growth rate of 6.5% and Tier 1 common of 8% at termination.

Downside risks to our PO are a slower-than-expected credit recovery, and the Fed on hold for a longer period of time.

**Signature Bank (SBNY)**
We use an equal-weighted three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $160 PO and assign a 2.1x multiple to 3Q17E TBV, representing a premium to the group, which we believe is appropriate given a stronger profitability and capital profile, and above-peer-growth prospects. Our 16.1x multiple on 2017E is higher than peers given consistent above peer growth. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 4%.

Risks to our price objective are required provisioning at higher-than-forecast levels, further deterioration in rental income for commercial properties, and a longer-than-anticipated low-rate environment.

**SunTrust Banks, Inc. (STI)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $53 PO, assigning a 1.7x multiple to 2017E TBV and 14.5x multiple on 17E EPS. Above peer P/TBV due to their above median profitability, and below peer P/E due to their below median EPS growth. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Our DCF assumes a two-stage cost of capital of 12% and a terminal growth rate of 4%.

Risks to our price objective are macro risks, such as a slower than expected rate increase. Upside risks are higher-than-expected capital return, a general beta rally for bank stocks, and faster recognition of "normalized" earnings.

**SVB Financial Group (SIVB)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $165 price objective and assign a 1.8x multiple to our 2Q17E TBV and apply a 17x P/E to 17E EPS. Our valuation multiples are both in line with high growth peers due to SIVB's high profitability and EPS growth profile. Our DCF assumes a two-stage cost of capital of 9.5% and a terminal growth rate of 6%.

Downside risks are a longer than expected low rate environment and a slowdown in the technology sector and related IPO activity. Upside risks are sooner than expected rate hike, or better than expected pickup in the tech sector.

**Synovus Financial Corp. (SNV)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $40 price objective and assign a 1.7x multiple to our forward 2Q17 TBV, given peers are currently trading higher and a discount is warranted given their lower return profile. We place a 15x multiple on 2017E EPS, in line with the historical median for the stock. Our DCF assumes a two-stage cost of capital of 9%, and a terminal growth rate of 3%.

Downside risks to our price objective are potentially slower-than-expected economic growth in their footprint or a potential takeout price that is lower than where the stock is trading today. Upside risks to our price objective are a quicker pick-up in capital return than we are expecting and SNV being acquired above our price objective.

**TCF Financial Corp. (TCB)**

We use an equal weighted, three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our PO of $14. We assigned a 1.2x multiple to 2Q17E TBV and a 12x multiple on 2017E EPS, with lower PTBV/PE multiple than peers assigned due to the higher perceived risk of their lending model. Our DCF assumes a two-stage cost of capital of 9.4% and 11.5% and a terminal growth rate of 2%.

Upside risk to our price objective is a less onerous residential real estate cycle favorably benefiting credit provision forecasts. Downside risks are a double dip in home prices and a prolonged low rate environment.

**Texas Capital Bancshares Inc. (TCBI)**
We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $74 price objective and assign a 1.7x multiple to our 2Q17E TBV, below high growth peers due to possible losses as a result of the downturn in energy prices. We place a 17x multiple on our 2017E EPS, below TCBI's historical pre-crisis P/E multiple based on possible EPS headwinds from their energy exposures. Our DCF assumes a two-stage cost of capital of 10% and a terminal growth rate of 4%.

Downside risks to our price objective are lower than expected oil prices and a slowdown in economic activity in Texas. Upside risk to our price objective is better than expected ramp up in MCA business, and sooner than expected hike in rates, faster than expected recovery in oil prices.

**The Blackstone Group (BX)**
Our price objective (PO) for Blackstone is $29, which results in a target price-to-ENI (P/ENI or P/E) multiple of 12x our 2017 ENI estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis is based on the following components: a target multiple on fee related earnings (16x - roughly in line with or a premium to top tier asset manager multiples given healthy growth and sticky assets), book value for the balance sheet investments and accrued carry, and a discounted value on the performance fee upside over a cycle (1.5x MOIC). Based on this method, we value the fee related earnings at $14/unit, the balance sheet (principal investments and accrued carry) at $6/unit, and the discounted value of future carry income and investment income at $9/unit, which equates to a total value of $29, in line with our price objective.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in tax laws related to carried interest and partnerships, legal and political risk, increased regulation, poor performance, weak fundraising, expansion risk, key person and talent risk, competition, and a unique corporate structure that limits unitholder control.

**The Carlyle Group (CG)**
Our price objective (PO) for Carlyle is $18, which implies a target price-to-ENI (P/ENI or P/E) multiple of 13x our 2017 ENI estimate. Our price objective is based on our sum-of-the-parts (SOTP) analysis. Our SOTP analysis is based on the following components: a target multiple on fee-related earnings (16x, roughly in line with or a premium to asset manager multiples given growth outlook), book value for the balance sheet investments and accrued carry, and a discounted value on the performance fee upside over a cycle (1.5x MOIC). Based on this method, we value the fee-related earnings at $4 share, the balance sheet at $5 share, and incentive upside at $9 share, which equates to a total value of $18, in line with our price objective.

Risks to our PO: a weak macro and capital markets backdrop, potential changes in carried interest and partnership tax laws, regulatory and political risk, poor performance, weak fundraising, expansion risk, key person and talent risk, competition, a unique corporate structure that limits shareholder control, a limited float, and share lock-ups that could weigh on the stock.

### The PNC Financial Services Group, Inc. (PNC)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $110 PO and assign a 1.4x multiple to 2017E TBV and 14x multiple on 2017E EPS, in line with target multiples for the median large regional banks under coverage. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

A superior profitability profile suggests an above peer multiple - however, a challenging macro backdrop and specific industry headwinds restrain our P/E target. Our DCF assumes a two-stage cost of capital of 9.6% and 11.2% and a terminal growth rate of 4%.

Risks are macro risks such as a lower for longer rate environment, the implementation of a strict liquidity coverage ratio and further regulation on overdraft income that restricts bank profitability.

### U.S. Bancorp (USB)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $50 PO, assigning an above peer 2.8x multiple to 2017E TBV and near median 14.5x multiple on 2017E EPS due to their above median profitability. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%. Our DCF assumes a two-stage cost of capital of 9.5% and 10.9% and a terminal growth rate of 5%.

Risks to our price objective are macro risks such as a double dip recession, the implementation of a strict liquidity coverage ratio and further regulation on overdraft income that restricts bank profitability. Specific to USB, risks are enhanced regulatory scrutiny and capital standards as a Domestic SIFI and an announcement of a large expensive deal that could weigh on the stock price.

### UMB Financial Corporation (UMBF)

We use a three-factor valuation framework (P/TBV, P/E, DCF) to arrive at our $78 price objective and assign a 1.8x multiple to our 2Q17E TBV, in-line with peers, and we place a 18x multiple on our 2017E EPS, above peers given our above median EPS growth forecast. Our DCF model assumes cost of equity of 8% and a terminal growth rate of 4%.

Downside risks to our price objective are continued rising long rates, which could negatively impact the company's sizable securities book and erode tangible book value. In addition, a sudden outflow of deposits could impact EPS and the asset sensitivity of UMBF's balance sheet to higher interest rates. Upside risks to our price objective are a much faster asset mix change into higher yielding loans that significantly increases its net interest margin.

### Wells Fargo & Company (WFC)

We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $55 PO, assigning a 1.75x multiple to 2017E TBV and 13x multiple on 2017E EPS. We have weighted the P/E and P/TBV factors equally at 40%, and our DCF analysis by 20%.

Our 1.6x TBV multiple represents a 0.3x premium to our mega-cap median multiple, but we believe this is justified due to WFC's superior returns on tangible equity (ROTE consistent between 13%-14% throughout our forecast period, versus 12% for peers). Our 12x EPS multiple is in line with our mega-cap median multiple. We believe WFC deserves to trade at a premium due to better earnings growth, but we are assuming WFC trades in line with peers due to a higher percentage of earnings from mortgage banking and accretable yield, as well as potentially greater regulatory scrutiny as the second largest US depository. Our DCF assumes a two-stage cost of capital of 11% and a terminal growth rate of 4%.

Downside risks to our price objective are an economic slowdown and the final implementation of a strict liquidity coverage ratio. Specific to WFC, risks are enhanced regulatory scrutiny and capital standards as a Global SIFI, and issues surrounding its cross selling.

**Zions Bancorp (ZION)**
We use a three-factor valuation framework (P/E, P/TBV, DCF) to arrive at our $36 price objective and assign a 1.2x multiple to 2017E TBV. Our 16x P/E multiple, which we apply on 2017E EPS along with debt extinguishment upside, is 1x higher than its historical median due to low interest rates. Our DCF assumes a two-stage cost of capital of 16.1% and 11.6% and a terminal growth rate of 8%.

Upside risks to our price objective are more robust economic recovery and less onerous post cycle reserve requirements. Downside risks are a slowdown in housing price appreciation and a prolonged low interest rate environment.

## Analyst Certification

We, Erika Najarian, Ebrahim H. Poonawala, Kenneth Bruce and Michael Carrier, CFA, hereby certify that the views each of us has expressed in this research report accurately reflect each of our respective personal views about the subject securities and issuers. We also certify that no part of our respective compensation was, is, or will be, directly or indirectly, related to the specific recommendations or view expressed in this research report.

## Special Disclosures

BofA Merrill Lynch is currently acting as financial advisor to KKR and the Company in connection with its proposed sale of a majority stake in SMCP Group to Shandong Ruyi Group. The signing of an exclusivity agreement between the parties was announced on 31 March 2016.

BofA Merrill Lynch is currently acting as financial advisor to Huntington Bancshares Inc in connection with Huntington and FirstMerit Corp's proposed sale of 13 bank branches in Stark and Ashtabula counties to First Commonwealth Bank, a subsidiary of First Commonwealth Financial Corp, which was announced on July 27, 2016.

BofA Merrill Lynch is currently acting as financial advisor to Blackstone Group LP in connection with its proposed acquisition of Team Health Holdings Inc, which was announced on October 31, 2016. The proposed transaction is subject to approval by shareholders of Team Health Holdings Inc. This research report is not intended to (1) provide voting advice, (2) serve as an endorsement of the proposed transaction, or (3) result in the procurement, withholding or revocation of a proxy.

BofA Merrill Lynch is currently acting as financial adviser to Blackstone Real Estate Partners Europe IV and Blackstone Real Estate Partners VIII (jointly “Blackstone”) through its entity Vega Holdco Sarl in connection with a proposed offer to acquire a controlling stake of D. Carnegie & Co. AB, which was announced on 15 July 2016. The transaction will, if completed eventually result in Blackstone passing the threshold for a mandatory offer obligation.

BofA Merrill Lynch is currently acting as financial advisor to Ares Capital Corp. in connection with its proposed acquisition of American Capital, Ltd., which was announced on May 23, 2016. Ares Management L.P. will provide financial support to the transaction. The proposed transaction is subject to approval by shareholders of American Capital ltd. and Ares Capital Corp. This research report is not intended to (1) provide voting advice, (2) serve as an endorsement of the proposed transaction, or (3) result in the procurement, withholding or revocation of a proxy.

**US - Brokers, Asset Managers, & Exchanges Coverage Cluster**

| Investment rating | Company | BofA Merrill Lynch ticker | Bloomberg symbol | Analyst |
|---|---|---|---|---|
| **BUY** | | | | |
| | Affiliated Mgrs. | AMG | AMG US | Michael Carrier, CFA |
| | AllianceBernstein | AB | AB US | Michael Carrier, CFA |
| | BlackRock, Inc. | BLK | BLK US | Michael Carrier, CFA |
| | Charles Schwab Corp. | SCHW | SCHW US | Michael Carrier, CFA |
| | CME Group | CME | CME US | Michael Carrier, CFA |
| | Cohen & Steers | CNS | CNS US | Michael Carrier, CFA |
| | Goldman Sachs | GS | GS US | Michael Carrier, CFA |
| | Houlihan Lokey | HLI | HLI US | Michael Carrier, CFA |
| | IntercontinentalExchange | ICE | ICE US | Michael Carrier, CFA |
| | Invesco | IVZ | IVZ US | Michael Carrier, CFA |
| | KKR & Co. | KKR | KKR US | Michael Carrier, CFA |
| | Legg Mason | LM | LM US | Michael Carrier, CFA |
| | Morgan Stanley | MS | MS US | Michael Carrier, CFA |
| | Oaktree Capital Group | OAK | OAK US | Michael Carrier, CFA |
| | Old Mutual Asset Management | OMAM | OMAM US | Michael Carrier, CFA |
| | TD Ameritrade | AMTD | AMTD US | Michael Carrier, CFA |
| **NEUTRAL** | | | | |
| | Apollo Global Management | APO | APO US | Michael Carrier, CFA |
| | Ares Management | ARES | ARES US | Michael Carrier, CFA |
| | E*TRADE Financial | ETFC | ETFC US | Michael Carrier, CFA |
| | Franklin Resources | BEN | BEN US | Michael Carrier, CFA |
| | Janus Capital | JNS | JNS US | Michael Carrier, CFA |
| | Nasdaq Inc | NDAQ | NDAQ US | Michael Carrier, CFA |
| | Och-Ziff | OZM | OZM US | Michael Carrier, CFA |
| | T. Rowe Price | TROW | TROW US | Michael Carrier, CFA |
| | The Blackstone Group | BX | BX US | Michael Carrier, CFA |
| | The Carlyle Group | CG | CG US | Michael Carrier, CFA |
| | WisdomTree | WETF | WETF US | Michael Carrier, CFA |
| **UNDERPERFORM** | | | | |
| | Artisan Partners | APAM | APAM US | Michael Carrier, CFA |
| | CBOE Holdings | CBOE | CBOE US | Michael Carrier, CFA |
| | Eaton Vance | EV | EV US | Michael Carrier, CFA |
| | Federated Inv. | FII | FII US | Michael Carrier, CFA |
| | Virtus Investment Partners | VRTS | VRTS US | Michael Carrier, CFA |
| | Waddell & Reed | WDR | WDR US | Michael Carrier, CFA |
| **RSTR** | | | | |
| | Bats Global Markets, Inc. | BATS | BATS US | Michael Carrier, CFA |

**US - Specialty Financial Services Coverage Cluster**

| Investment rating | Company | BofA Merrill Lynch ticker | Bloomberg symbol | Analyst |
|---|---|---|---|---|
| **BUY** | | | | |
| | Apollo Commercial Real Estate Finance | ARI | ARI US | Kenneth Bruce |
| | Ares Commercial Real Estate Corp. | ACRE | ACRE US | Kenneth Bruce |
| | Blackstone Mortgage Trust Inc | BXMT | BXMT US | Kenneth Bruce |
| | Compass Diversified Holdings | CODI | CODI US | Derek Hewett |
| | Ladder Capital Corp. | LADR | LADR US | Kenneth Bruce |
| | MGIC Investment Corp. | MTG | MTG US | Mihir Bhatia |
| | New Residential Investment | NRZ | NRZ US | Kenneth Bruce |
| | Radian Group Inc | RDN | RDN US | Mihir Bhatia |
| | Starwood Property Trust, Inc. | STWD | STWD US | Kenneth Bruce |
| | TCP Capital Corp. | TCPC | TCPC US | Derek Hewett |
| | TPG Specialty Lending, Inc. | TSLX | TSLX US | Derek Hewett |
| **NEUTRAL** | | | | |
| | AGNC Investment Corp | AGNC | AGNC US | Kenneth Bruce |
| | Ally Financial Inc. | ALLY | ALLY US | Kenneth Bruce |
| | Amer Express | AXP | AXP US | Kenneth Bruce |
| | Annaly Capital | NLY | NLY US | Kenneth Bruce |
| | CIT Group Inc. | CIT | CIT US | Derek Hewett |
| | Discover Financial Services | DFS | DFS US | Kenneth Bruce |
| | Golub Capital BDC, Inc. | GBDC | GBDC US | Derek Hewett |
| | MasterCard Inc | MA | MA US | Kenneth Bruce |
| | PayPal | PYPL | PYPL US | Kenneth Bruce |
| | PennyMac Financial Services, Inc. | PFSI | PFSI US | Kenneth Bruce |
| | Synchrony Financial | SYF | SYF US | Kenneth Bruce |
| | Visa Inc. | V | V US | Kenneth Bruce |
| **UNDERPERFORM** | | | | |
| | Apollo Investment Corporation | AINV | AINV US | Derek Hewett |
| | Capital One | COF | COF US | Kenneth Bruce |
| | Credit Acceptance Corp. | CACC | CACC US | Kenneth Bruce |
| | Essent Group | ESNT | ESNT US | Mihir Bhatia |
| | Goldman Sachs BDC, Inc. | GSBD | GSBD US | Derek Hewett |
| | OneMain Holdings, Inc. | OMF | OMF US | Kenneth Bruce |
| | PennyMac Mortgage Investment Trust | PMT | PMT US | Kenneth Bruce |
| | Santander Consumer USA Inc. | SC | SC US | Kenneth Bruce |
| **RSTR** | | | | |
| | American Capital, Ltd. | ACAS | ACAS US | Derek Hewett |
| | Ares Capital Corporation | ARCC | ARCC US | Derek Hewett |
| **RVW** | | | | |
| | AG Mortgage Investment Trust, Inc. | MITT | MITT US | Kenneth Bruce |
| | ARMOUR Residential REIT, Inc | ARR | ARR US | Kenneth Bruce |
| | CYS Investments, Inc | CYS | CYS US | Kenneth Bruce |
| | Ellington Financial LLC | EFC | EFC US | Kenneth Bruce |
| | Hannon Armstrong | HASI | HASI US | Kenneth Bruce |
| | Invesco Mortgage Capital, Inc. | IVR | IVR US | Kenneth Bruce |
| | Two Harbors Investment Corp. | TWO | TWO US | Kenneth Bruce |
| | Western Asset Mortgage Corp | WMC | WMC US | Kenneth Bruce |

**US - Banks Coverage Cluster**

| Investment rating | Company | BofA Merrill Lynch ticker | Bloomberg symbol | Analyst |
|---|---|---|---|---|
| **BUY** | | | | |
| | BankUnited, Inc. | BKU | BKU US | Ebrahim H. Poonawala |
| | BB&T Corporation | BBT | BBT US | Erika Najarian |
| | Capital Bank Financial Corp. | CBF | CBF US | Erika Najarian |
| | Citigroup Inc. | C | C US | Erika Najarian |
| | Citizens Financial Group | CFG | CFG US | Erika Najarian |
| | East West Bancorp, Incorporated | EWBC | EWBC US | Ebrahim H. Poonawala |
| | FCB Financial Holdings, Inc | FCB | FCB US | Ebrahim H. Poonawala |
| | Great Western Bancorp Inc | GWB | GWB US | Ebrahim H. Poonawala |
| | Huntington Bancshares Inc. | HBAN | HBAN US | Erika Najarian |
| | IBERIABANK Corp | IBKC | IBKC US | Ebrahim H. Poonawala |
| | JPMorgan Chase & Co. | JPM | JPM US | Erika Najarian |
| | Key Corp | KEY | KEY US | Erika Najarian |
| | New York Community Bancorp | NYCB | NYCB US | Ebrahim H. Poonawala |
| | Signature Bank | SBNY | SBNY US | Ebrahim H. Poonawala |
| | SunTrust Banks, Inc. | STI | STI US | Erika Najarian |
| | SVB Financial Group | SIVB | SIVB US | Ebrahim H. Poonawala |
| | The PNC Financial Services Group, Inc. | PNC | PNC US | Erika Najarian |
| | UMB Financial Corporation | UMBF | UMBF US | Ebrahim H. Poonawala |
| | Wells Fargo & Company | WFC | WFC US | Erika Najarian |
| **NEUTRAL** | | | | |
| | Banc of California | BANC | BANC US | Ebrahim H. Poonawala |
| | Commerce Bancshares Inc. | CBSH | CBSH US | Ebrahim H. Poonawala |
| | Fifth Third Bank | FITB | FITB US | Erika Najarian |
| | First Bancorp Puerto Rico | FBP | FBP US | Ebrahim H. Poonawala |
| | First Hawaiian Inc. | FHB | FHB US | Ebrahim H. Poonawala |
| | Franklin Financial Network, Inc. | FSB | FSB US | Ebrahim H. Poonawala |
| | Hancock Holding | HBHC | HBHC US | Ebrahim H. Poonawala |
| | M&T Bank | MTB | MTB US | Erika Najarian |
| | Regions Financial | RF | RF US | Erika Najarian |
| | Synovus Financial Corp. | SNV | SNV US | Ebrahim H. Poonawala |
| | Texas Capital Bancshares Inc. | TCBI | TCBI US | Ebrahim H. Poonawala |
| | U.S. Bancorp | USB | USB US | Erika Najarian |
| **UNDERPERFORM** | | | | |
| | Associated Banc-Corp | ASB | ASB US | Ebrahim H. Poonawala |
| | Bank of Hawaii Corp. | BOH | BOH US | Ebrahim H. Poonawala |
| | Comerica Incorporated | CMA | CMA US | Erika Najarian |
| | Cullen/Frost Bankers Inc | CFR | CFR US | Ebrahim H. Poonawala |
| | First Horizon National Corp. | FHN | FHN US | Ebrahim H. Poonawala |
| | Prosperity Bancshares Inc | PB | PB US | Ebrahim H. Poonawala |
| | TCF Financial Corp. | TCB | TCB US | Ebrahim H. Poonawala |
| | Zions Bancorp | ZION | ZION US | Erika Najarian |
| **RSTR** | | | | |
| | First Republic Bank | FRC | FRC US | Erika Najarian |

# Disclosures

## Important Disclosures

**Equity Investment Rating Distribution: Banks Group (as of 30 Sep 2016)**

| Coverage Universe | Count | Percent | Inv. Banking Relationships* | Count | Percent |
|---|---|---|---|---|---|
| Buy | 81 | 43.55% | Buy | 74 | 91.36% |
| Hold | 45 | 24.19% | Hold | 41 | 91.11% |
| Sell | 60 | 32.26% | Sell | 56 | 93.33% |

**Equity Investment Rating Distribution: Financial Services Group (as of 30 Sep 2016)**

| Coverage Universe | Count | Percent | Inv. Banking Relationships* | Count | Percent |
|---|---|---|---|---|---|
| Buy | 113 | 46.89% | Buy | 89 | 78.76% |
| Hold | 66 | 27.39% | Hold | 55 | 83.33% |
| Sell | 62 | 25.73% | Sell | 40 | 64.52% |

**Equity Investment Rating Distribution: Global Group (as of 30 Sep 2016)**

| Coverage Universe | Count | Percent | Inv. Banking Relationships* | Count | Percent |
|---|---|---|---|---|---|
| Buy | 1553 | 49.44% | Buy | 1130 | 72.76% |
| Hold | 730 | 23.24% | Hold | 538 | 73.70% |
| Sell | 858 | 27.32% | Sell | 514 | 59.91% |

* Issuers that were investment banking clients of BofA Merrill Lynch or one of its affiliates within the past 12 months. For purposes of this Investment Rating Distribution, the coverage universe includes only stocks. A stock rated Neutral is included as a Hold, and a stock rated Underperform is included as a Sell.

**FUNDAMENTAL EQUITY OPINION KEY: Opinions include a Volatility Risk Rating, an Investment Rating and an Income Rating. *VOLATILITY RISK RATINGS*, indicators of potential price fluctuation, are: A - Low, B - Medium and C - High. *INVESTMENT RATINGS* reflect the analyst's assessment of a stock's: (i) absolute total return potential and (ii) attractiveness for investment relative to other stocks within its *Coverage Cluster* (defined below). There are three investment ratings: 1 - Buy stocks are expected to have a total return of at least 10% and are the most attractive stocks in the coverage cluster; 2 - Neutral stocks are expected to remain flat or increase in value and are less attractive than Buy rated stocks and 3 - Underperform stocks are the least attractive stocks in a coverage cluster. Analysts assign investment ratings considering, among other things, the 0-12 month total return expectation for a stock and the firm's guidelines for ratings dispersions (shown in the table below). The current price objective for a stock should be referenced to better understand the total return expectation at any given time. The price objective reflects the analyst's view of the potential price appreciation (depreciation).**

| Investment rating | Total return expectation (within 12-month period of date of initial rating) | Ratings dispersion guidelines for coverage cluster* |
|---|---|---|
| Buy | ≥ 10% | ≤ 70% |
| Neutral | ≥ 0% | ≤ 30% |
| Underperform | N/A | ≥ 20% |

* Ratings dispersions may vary from time to time where BofA Merrill Lynch Research believes it better reflects the investment prospects of stocks in a Coverage Cluster.

***INCOME RATINGS*, indicators of potential cash dividends, are: 7 - same/higher (dividend considered to be secure), 8 - same/lower (dividend not considered to be secure) and 9 - pays no cash dividend.** *Coverage Cluster* is comprised of stocks covered by a single analyst or two or more analysts sharing a common industry, sector, region or other classification(s). A stock's coverage cluster is included in the most recent BofA Merrill Lynch report referencing the stock.

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Price charts for the securities referenced in this research report are available at http://pricecharts.baml.com, or call 1-800-MERRILL to have them mailed.

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**From**: Ens, Amanda [[redacted]
**Sent**: 11/17/2016 8:55:12 PM
**To**: jeffrey E. [jeevacation@gmail.com]; Richard Kahn [redacted]
**Subject**: USDJPY testing 110. Buy Japan upside
**Attachments**: image001.png; image002.png; image003.png; image004.jpg; image005.jpg; image006.jpg; image007.jpg; image008.png; image009.jpg; image010.jpg; image011.jpg; image012.gif; Nikkei to 20000.pdf; Japan - Ready for ignition.pdf; Japan Macro Watch.pdf

**Importance**: High

Buy DXJ Jan 50/52 Call Spread for $0.35, ref 47.45, 13d. 4.7X net payout

*We can also discuss single stock and Topix banks index (TPNBNK) ideas*

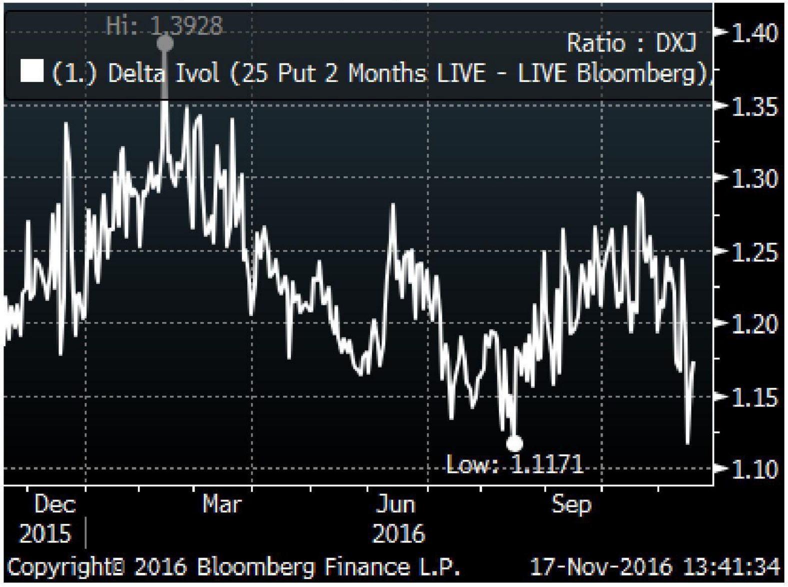
The Republican sweep means higher USD and yields are a foregone conclusion. We see USDJPY reaching 120 next year and Japanese reflation, bullish for Japanese equities, particularly the banks.

- Huge focus on Banks/Financials post Trump election, they're the big winners.
- The Banking sector is the main beneficiary of higher rates/less regulation overhang.
- Investors are still underweight Japan. Especially in financials, so the move can have legs
- Valuation still at depressed levels. Japanese Banks are cheap versus their peers.
- Having said that, uncertainty still there so buying calls and call spreads makes sense. Some investors are still skeptical. Instead of building a large cash position, we believe options are a better play in case the market reverses and initiates a risk off move again.

-BAML expects USDJPY 115-120 by end of 2017. NKY target of 20,000 (12% upside)
-BOJ's intentions to refrain from further flattening of local yield curve positive for Banks and Insurers.
-DXJ carries a **12% weight in banks** whereas NKY is only 1.07% and even TPX is only 8.55%.
-Positioning light. DXJ shares outstanding at 3year lows as foreigners have net sold $52bln of JP equities ytd.
-DXJ skew remains flat. 2m 25d Put /Call skew at 19%tile over the past year.

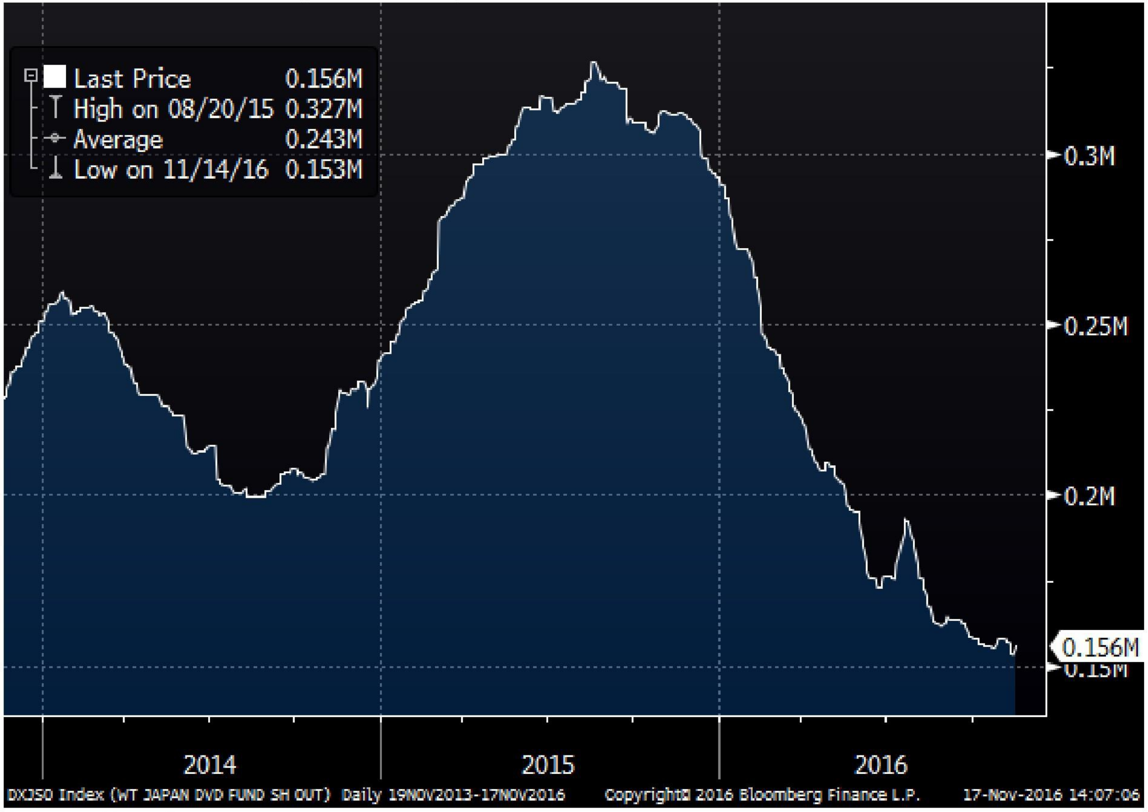
*Japan Investment Strategy, Japan Econ Outlook and Japan Macro Watch attached*

DXJ 2m 25d Put/Call over the past year.



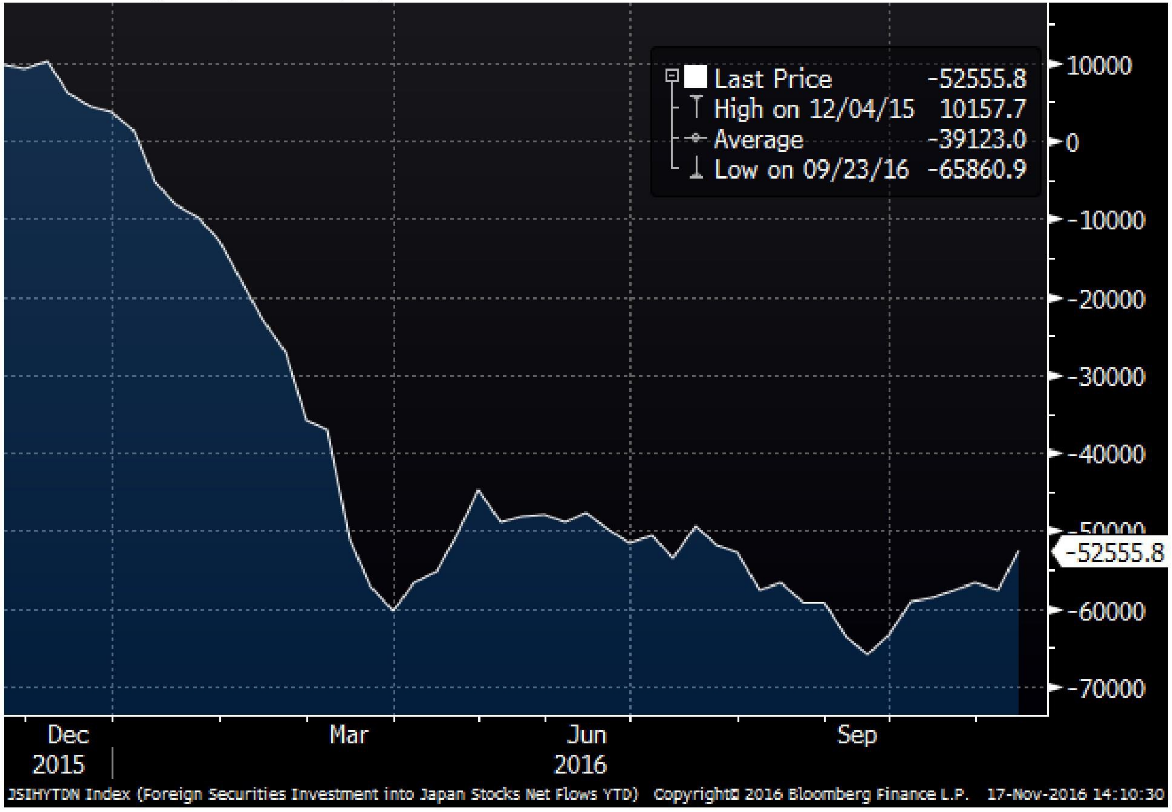
Source: Bloomberg

DXJ ETF shares outstanding remain at 3 year lows.



Source: Bloomberg

YTD net foreigner Japanese Equity flows:



Source: Bloomberg

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## Japan Investment Strategy

# Nikkei to 20,000: Inventory cycle upturn → cyclicals; inflation → banks, insurance

**Investment Strategy**

**18 November 2016**

### Key takeaways

- Solid macro and weaker JPY positive for Japan equities, which also tend to outperform when US rate rises (esp. steepening)
- The inventory cycle continues to recover on fiscal easing and capex, implying cyclical stocks will outperform
- Inflation and higher yields positive for banks, insurance. Risk is diplomacy, protectionism, and US economic cycle

**FULL REPORT**

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## Bullish equities 2017; rotation into cyclicals, banks, insurance

We are bullish Japan equities for 2017 and we estimate the Nikkei 225 index will recover to 20,000 by end-2017 (see $/¥'s eventual surge: Buy Nikkei 06 September 2016). Our new Chief Japan Economist Izumi Devalier forecasts above-consensus Japan GDP growth and inflation in 2017, which is also supportive of our bullish equities scenario (see Ready for ignition 18 November 2016). We expect rotation into cyclicals, banks and insurance as explained below.

## 1) Upturn in inventory cycle: Defensives→Cyclicals

We expect cyclicals to outperform defensives, premised on our end-2017 $/¥ estimate of ¥120, and this is supported by our above-consensus economic growth outlook. Our Japan economist sees a shift to fiscal easing, firms countering the tight labor market by increasing capex, and estimates industrial production to grow 3.5% and 3.6% in 2017 and 2018, respectively. With the inventory cycle exiting a "contraction" phase and entering a "recovery" phase, conditions are likely to remain conducive to cyclicals outperforming defensives (Chart 1, Exhibit 3).

## 2) Higher inflation, rates: Deflation stocks→Inflation stocks

Up to 1H16, the Japan equity market saw continued preference for deflationary stocks as domestic inflation remained subdued and the JGB curve underwent excessive bull flattening. Defensives outperformed cyclicals (Chart 1), growth outperformed value (Chart 2), and stocks that benefit from a low-yield environment (REITs) outperformed the converse (banks, insurance; Chart 3). However, we expect conditions to reverse into 2017. We see US Treasury yields rising and Japanese core CPI inflation recovering to +1.4% yoy by 2018 and core-core to +1.1% yoy. Stronger inflation and higher foreign yields should steepen the JGB yield curve above10yr, while below 10yr should escape from downward pressure as BoJ rate cut expectations recede. Against this backdrop, we expect to see a rotation from deflation to inflation stocks, which in addition to cyclicals means banks and insurance should outperform REITs within the financial sector (Chart 3). This is also in line with the global rotation expected by Michael Hartnett (The Flow Show: The Inflation Era Begins 10 November 2016).

## 3) Nikkei winner of steeper UST and strong macro

In a scenario of strong external demand and US rate hikes (particularly with curve steepening), Japan equities tend to be the winner on a local currency basis, led by cyclicals, banks and insurance stocks (Exhibit 4). Resurgence in the "Japan macro trade" of short yen / buy equities is also a possibility.

Our Buy-rated stocks in bank, insurance and cyclical sectors are listed in Table 1.

**Shusuke Yamada, CFA** ✉
FX/Equity Strategist
Merrill Lynch (Japan)
[redacted]

# Japan Economics Viewpoint

## Ready for ignition

**18 November 2016**

### Key takeaways

- We are upbeat on Japan's outlook and think consensus is underestimating the strength of medium-term GDP and inflation.
- While the consensus looks for just 0.8% growth next year, we expect growth of 1.4% in CY17 and 1.2% in CY18.
- With inflation moving in the right direction, we expect BoJ to keep its rates targets unchanged for the foreseeable future.

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## Consensus underestimating GDP and inflation

We are upbeat on Japan's outlook and think consensus is underestimating the strength of medium-term GDP and inflation. We expect growth of 1.4% in CY2017 and 1.2% in CY2018, well above consensus of just 0.8% growth next year. For the first time in four years both monetary and fiscal policy are supporting growth. The combination of modestly higher commodity prices, a weaker yen, and a tightening output gap should drive Japan-style core inflation to 1.0% in CY2017, and 1.4% in CY2018. We expect the BoJ to keep its rate targets unchanged for the foreseeable future as inflation moves in the right direction.

## Fiscal and monetary policy realigning

For years Japan has oscillated between loose and tight fiscal policy. Japanese policymakers now seem to be on the same page and we see little risk of another policy error. If anything, we see upside risks from greater fiscal stimulus via a third supplementary budget or a relatively aggressive FY17 ordinary budget. Meanwhile, the BoJ's new interest-pegging regime ensures that financial conditions will become increasingly stimulatory as inflation rises.

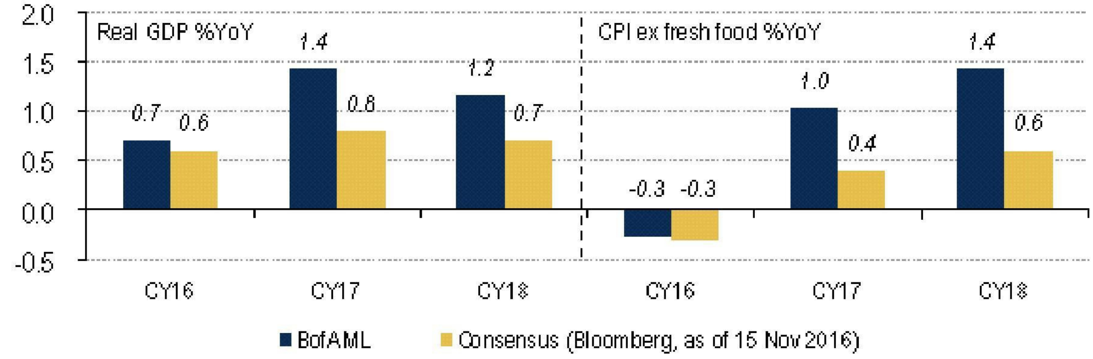
## 2017 - a year of recovering domestic demand

We think the economy is heading towards a cyclical sweet spot and see a broad-based recovery in domestic demand. Specifically, 1) consumption is poised to rebound as the saving rate peaks; 2) capex should accelerate in response to the improving demand outlook, deepening supply-side constraints, and "low-for-longer" real rates; and 3) increased efforts by policymakers to accelerate income redistribution could push up the velocity of money at the margin, helping to reflate the economy.

## Biggest risk factor: US policy uncertainty

External developments pose the greatest risk to our forecasts, chief among them US policy uncertainty. The downside scenario for Japan is a combination of rising US protectionism, sliding global trade, and a stronger yen, which could reduce 2017 growth to zero. The Trump presidency may increase pressure on Japan to achieve greater military self-reliance, boosting defense spending. There will also be greater incentives to deepen economic and trade linkages with key regional players, such as China and Russia.

**Chart 1: We think consensus is underestimating the strength of medium-term GDP and inflation**



Source: BofA Merrill Lynch forecasts, Bloomberg

**Izumi Devalier** ✉
Japan Economist
Merrill Lynch (Japan)
[redacted]

2017 *Institutional Investor* (All-Japan) Survey
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Japan Investment Strategy

# Nikkei to 20,000: Inventory cycle upturn → cyclicals; inflation → banks, insurance

Investment Strategy

18 November 2016

## Bullish equities 2017; rotation into cyclicals, banks, insurance

We are bullish Japan equities for 2017 and we estimate the Nikkei 225 index will recover to 20,000 by end-2017 (see $/¥'s eventual surge: Buy Nikkei 06 September 2016). Our new Chief Japan Economist Izumi Devalier forecasts above-consensus Japan GDP growth and inflation in 2017, which is also supportive of our bullish equities scenario (see Ready for ignition 18 November 2016). We expect rotation into cyclicals, banks and insurance as explained below.

## 1) Upturn in inventory cycle: Defensives→Cyclicals

We expect cyclicals to outperform defensives, premised on our end-2017 $/¥ estimate of ¥120, and this is supported by our above-consensus economic growth outlook. Our Japan economist sees a shift to fiscal easing, firms countering the tight labor market by increasing capex, and estimates industrial production to grow 3.5% and 3.6% in 2017 and 2018, respectively. With the inventory cycle exiting a "contraction" phase and entering a "recovery" phase, conditions are likely to remain conducive to cyclicals outperforming defensives (Chart 1, Exhibit 3).

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Our Buy-rated stocks in bank, insurance and cyclical sectors are listed in Table 1.

Investment Strategy
Japan

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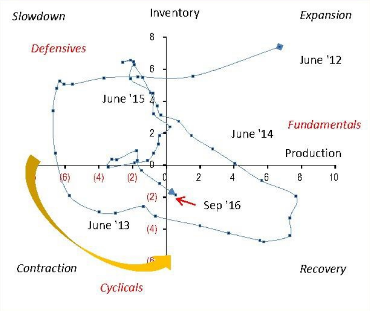
**Exhibit 1: Sector rotation and inventory cycle**



Source: BofA Merrill Lynch Global Research, Bloomberg, Haver

**Exhibit 2: Shares rated Buy by our analysts in cyclical, bank and insurance sectors***

| Company | Ticker | Company | Ticker | Company | Ticker |
|---|---|---|---|---|---|
| Mitsubishi UFJ FG | 8306 JP | Dai-ichi Life | 8750 JP | JR East | 9020 JP |
| Japan Post Bank | 7182 JP | MS&AD Holdings | 8725 JP | JR Central | 9022 JP |
| SMFG | 8316 JP | Sompo Holdings | 8630 JP | Nintendo | 7974 JP |
| Resona HD | 8308 JP | Shin-Etsu Chem | 4063 JP | Recruit HD | 6098 JP |
| Mitsubishi Elec | 6503 JP | FUJIFILM | 4901 JP | Oriental Land | 4661 JP |
| Nidec | 6594 JP | Sony | 6758 JP | Fuji Heavy Ind | 7270 JP |
| Hitachi | 6501 JP | NTT DATA | 9613 JP | Suzuki Motor | 7269 JP |
| Panasonic | 6752 JP | NSSMC | 5401 JP | | |

Source: BofA Merrill Lynch Global Research
*Market cap above 1.5trn JPY except bank, insurance shares

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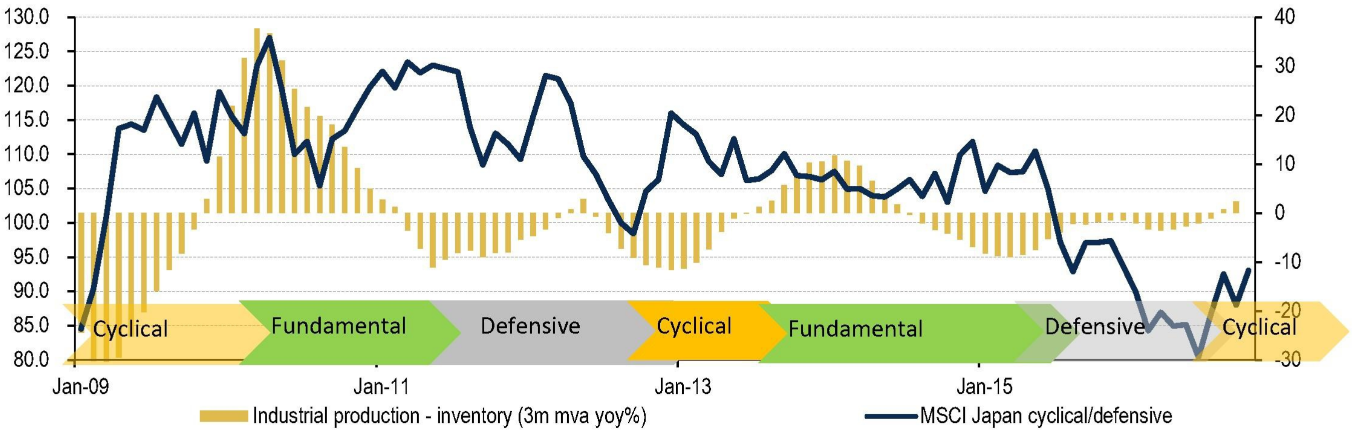
## Risks: Geopolitics, diplomacy and US economic cycle

The biggest risk to our scenario is the implications for Japan's diplomatic and geopolitical environment of the Donald Trump presidency in the US. The likelihood of agreement on the TPP (Trans-Pacific Partnership) has already declined and been priced into the market, but any downward spiral in Japan-US relations would likely be further negative for Japan equities near-term. A rise in protectionism would be negative for stocks with high US export exposure. Meanwhile if the US economy slows or enters recession and the protectionist response weakens USD, it would be negative for Japanese cyclicals, particularly exporters, due to stronger JPY and potential trade conflicts. Moreover, a potential improvement in US-Russia (US-China) relations under the new US President most likely implies a relative worsening in Japan-Russia (Japan-China) relations. On the other hand, we expect Japan to move closer to Europe under such a scenario, raising the incentive to sign the Japan-EU EPA (Economic Partner Agreement), positive for related stocks. If the Trump presidency tips the US towards isolationism, we expect Japan's spending on defense to increase. If this results in higher spending on Japan's Self Defense Forces (rather than compensating for US spending on Japan-based US military), Japan's defense-related stocks would be beneficiaries, and it could reshape the arms industry in Japan.

**Chart 1: Sector rotation and inventory cycle**



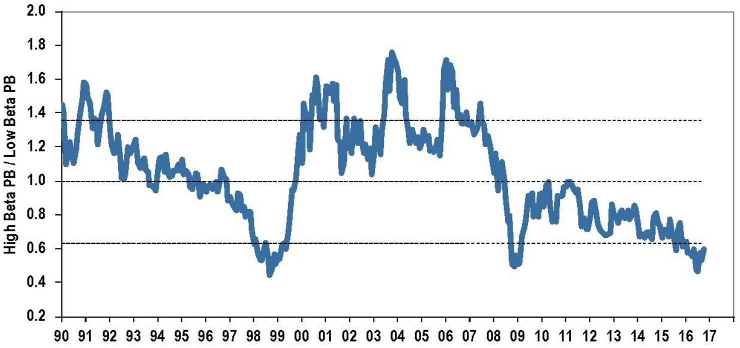
Source: BofA Merrill Lynch Global Research, Bloomberg, Haver

Cyclical = Industrials, consumer discretionary, IT, materials

Defensive = Healthcare, telecom, consumer staples, utilities

Calculated cyclical and defensive % change using monthly index return and index weight

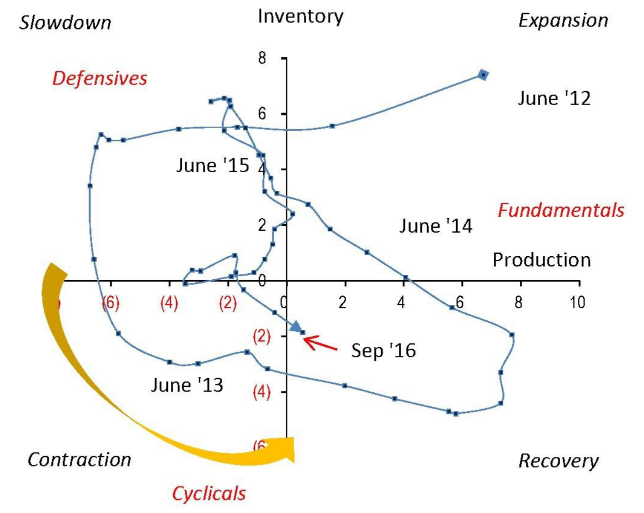
**Chart 2: Japan – High Beta PB vs. Low Beta PB**



Source: BofA Merrill Lynch Global Quantitative Strategy, MSCI, IBES

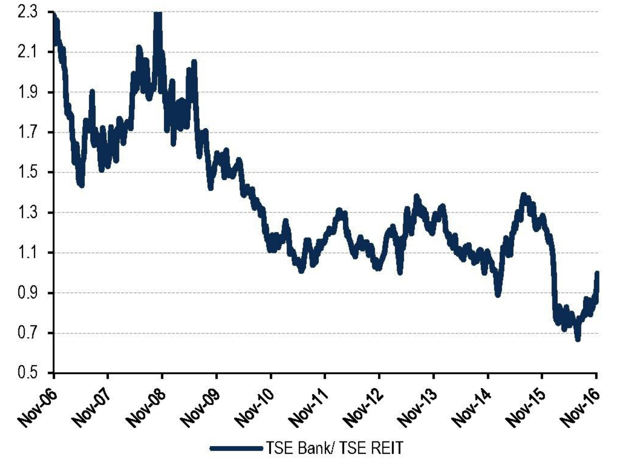
Global Quant Panorama: Surf for longer 14 November 2016

**Exhibit 3: Sector rotation and inventory cycle**



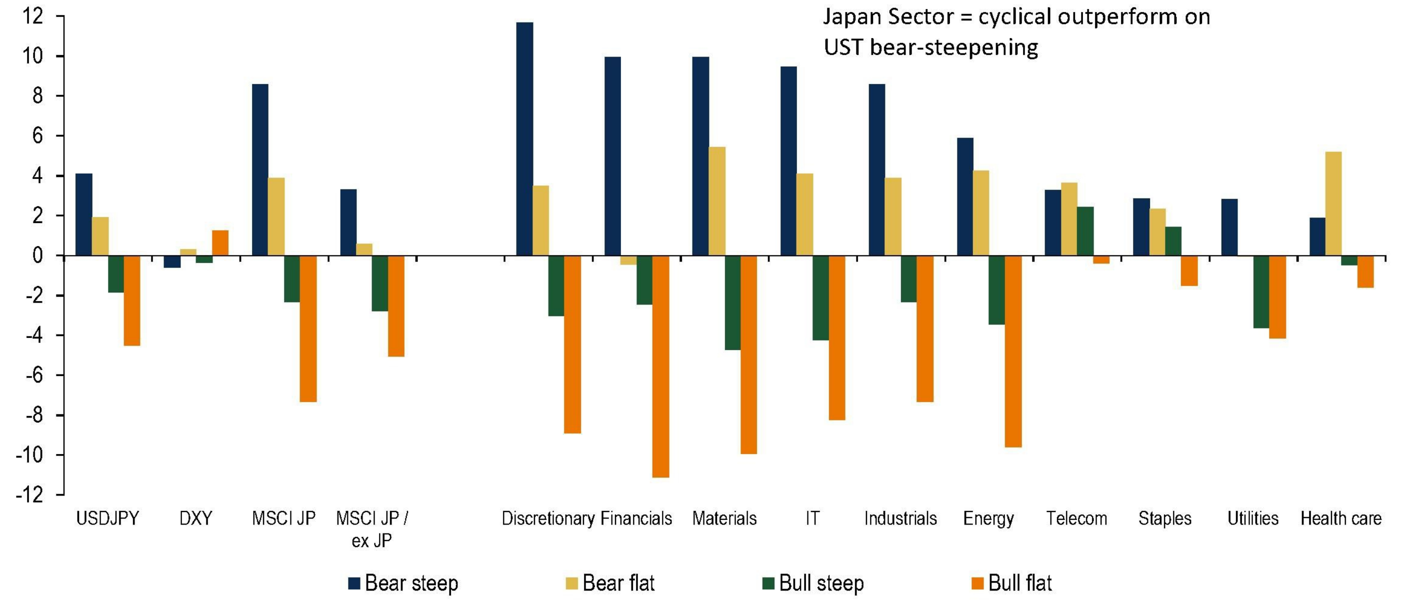
Source: BofA Merrill Lynch Global Research, Bloomberg, Haver

**Chart 3: Higher inflation/yields suggests banks will outperform REITs**



Source: BofA Merrill Lynch Global Research, Bloomberg,

**Exhibit 4: Reactions to US Treasury curve moves (%, simple average of past 43 quarters) – Japan equities have outperformed during bear-steepening led by cyclicals, banks and insurance**



Source: BofA Merrill Lynch Global Research, Bloomberg.

Curve movements based on 2yr move and 2s10s move (Bloomberg US Treasury yield index), so includes twist movements, but even if we exclude these implications do not materially change.

Bear steepening (2yr + 16bps, 2s10s +33bps) = 11 quarters, bear flattening (2yr +26bps, 2s10s -20bps) = 10 quarters, bull steepening (2yr -48bps, 2s10s +28bps) = 10 quarters, bull flattening (2yr -27bps, 2s10s -30bps) = 12 quarters

**Table 1: Shares rated buy by our analysts in cyclical, bank and insurance sectors***

| Company Name | Ticker | Industry (JPX definition) | Price | MKT CAP (Billion Yen) | Analyst Name |
|---|---|---|---|---|---|
| Mitsubishi UFJ FG | 8306 JP | Banks | 683 | 9,674 | Futoshi Sasaki |
| Japan Post Bank | 7182 JP | Banks | 1331 | 5,990 | Futoshi Sasaki |
| SMFG | 8316 JP | Banks | 4190 | 5,925 | Futoshi Sasaki |
| Resona HD | 8308 JP | Banks | 538 | 1,251 | Futoshi Sasaki |
| Mitsubishi Elec | 6503 JP | Electric Appliances | 1592 | 3,418 | Mikio Hirakawa |
| Nidec | 6594 JP | Electric Appliances | 10460 | 3,035 | Masashi Kubota |
| Hitachi | 6501 JP | Electric Appliances | 588 | 2,658 | Mikio Hirakawa |
| Panasonic | 6752 JP | Electric Appliances | 1033 | 2,533 | Mikio Hirakawa |
| Dai-ichi Life | 8750 JP | Insurance | 1850 | 2,202 | Futoshi Sasaki |
| MS&AD Holdings | 8725 JP | Insurance | 3405 | 2,085 | Futoshi Sasaki |
| Sompo Holdings | 8630 JP | Insurance | 3684 | 1,506 | Futoshi Sasaki |
| Shin-Etsu Chem | 4063 JP | Chemicals | 8328 | 3,599 | Takashi Enomoto |
| FUJIFILM | 4901 JP | Chemicals | 4095 | 1,906 | Hiroyasu Eguchi |
| Sony | 6758 JP | Electric Appliances | 3226 | 4,075 | Mikio Hirakawa |
| NTT DATA | 9613 JP | Information & Communication | 5530 | 1,551 | Hiroyasu Eguchi |
| NSSMC | 5401 JP | Iron & Steel | 2384 | 2,266 | Takashi Enomoto |
| JR East | 9020 JP | Land Transportation | 9542 | 3,743 | Yasuhito Tsuchiya |
| JR Central | 9022 JP | Land Transportation | 17825 | 3,672 | Yasuhito Tsuchiya |
| Nintendo | 7974 JP | Other Products | 26050 | 3,129 | Hiroyasu Eguchi |
| Recruit HD | 6098 JP | Services | 4340 | 2,453 | Yoshiyuki Kinoshita |
| Oriental Land | 4661 JP | Services | 5957 | 1,991 | Rie Sakai |
| Fuji Heavy Ind | 7270 JP | Transportation Equipment | 4320 | 3,371 | Kei Nihonyanagi |
| Suzuki Motor | 7269 JP | Transportation Equipment | 3711 | 1,637 | Kei Nihonyanagi |

Source: BofA Merrill Lynch Global Research

*Cyclical sectors = Industrials, consumer discretionary, IT, materials in GICS definition

*Market cap above 1.5trn JPY except bank, insurance shares

*Exclude Fast Retailing

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| Investment rating | Total return expectation (within 12-month period of date of initial rating) | Ratings dispersion guidelines for coverage cluster* |
|---|---|---|
| Buy | ≥ 10% | ≤ 70% |
| Neutral | ≥ 0% | ≤ 30% |
| Underperform | N/A | ≥ 20% |

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Japan Economics Viewpoint

# Ready for ignition

Bank of America Merrill Lynch

18 November 2016

Economics
Japan

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## Consensus underestimating GDP and inflation

We are upbeat on Japan's outlook and think consensus is underestimating the strength of medium-term GDP and inflation. We expect growth of 1.4% in CY2017 and 1.2% in CY2018, well above consensus of just 0.8% growth next year. For the first time in four years both monetary and fiscal policy are supporting growth. The combination of modestly higher commodity prices, a weaker yen, and a tightening output gap should drive Japan-style core inflation to 1.0% in CY2017, and 1.4% in CY2018. We expect the BoJ to keep its rate targets unchanged for the foreseeable future as inflation moves in the right direction.

## Fiscal and monetary policy realigning

For years Japan has oscillated between loose and tight fiscal policy. Japanese policymakers now seem to be on the same page and we see little risk of another policy error. If anything, we see upside risks from greater fiscal stimulus via a third supplementary budget or a relatively aggressive FY17 ordinary budget. Meanwhile, the BoJ's new interest-pegging regime ensures that financial conditions will become increasingly stimulatory as inflation rises.

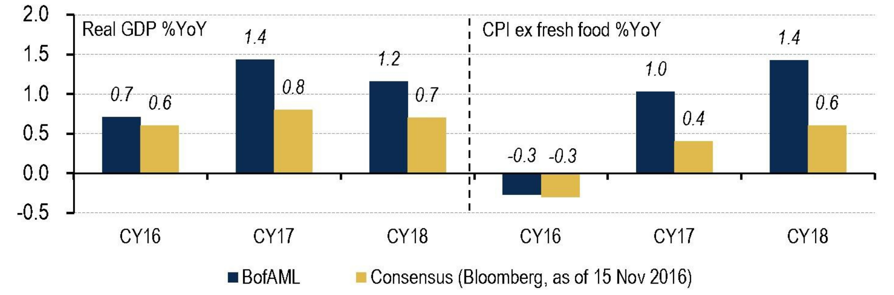
## 2017 – a year of recovering domestic demand

We think the economy is heading towards a cyclical sweet spot and see a broad-based recovery in domestic demand. Specifically, 1) consumption is poised to rebound as the saving rate peaks; 2) capex should accelerate in response to the improving demand outlook, deepening supply-side constraints, and "low-for-longer" real rates; and 3) increased efforts by policymakers to accelerate income redistribution could push up the velocity of money at the margin, helping to reflate the economy.

## Biggest risk factor: US policy uncertainty

External developments pose the greatest risk to our forecasts, chief among them US policy uncertainty. The downside scenario for Japan is a combination of rising US protectionism, sliding global trade, and a stronger yen, which could reduce 2017 growth to zero. The Trump presidency may increase pressure on Japan to achieve greater military self-reliance, boosting defense spending. There will also be greater incentives to deepen economic and trade linkages with key regional players, such as China and Russia.

**Chart 1: We think consensus is underestimating the strength of medium-term GDP and inflation**



Source: BofA Merrill Lynch forecasts, Bloomberg

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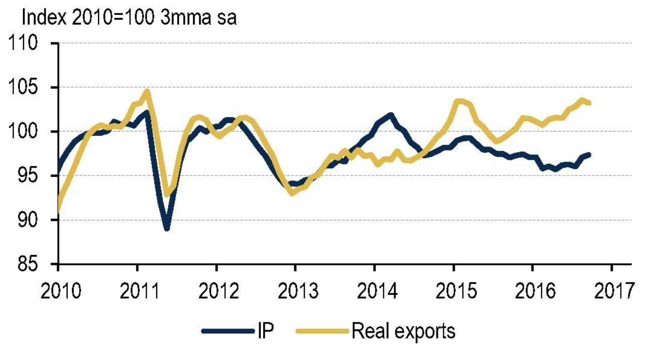
# Escape from zero

The Q3 CY16 GDP print confirms our view that Japan has at last emerged from the de facto zero-growth trap of the past few years. Growth accelerated to an above-consensus 2.2% q-o-q saar, after a 0.7% rise in Q2 CY16 and 2.1% rise in Q1 CY16. We expect a moderation in Q4 CY16, but underlying growth will remain firmly in the 1.0-1.5% range. We are currently tracking CY2016 growth of 0.7%, a modest improvement from 0.6% in CY2015, though the switch to a new GDP standard[1] next month raises uncertainty around our forecasts.

## Upturn in exports to be sustained through Q3 CY17

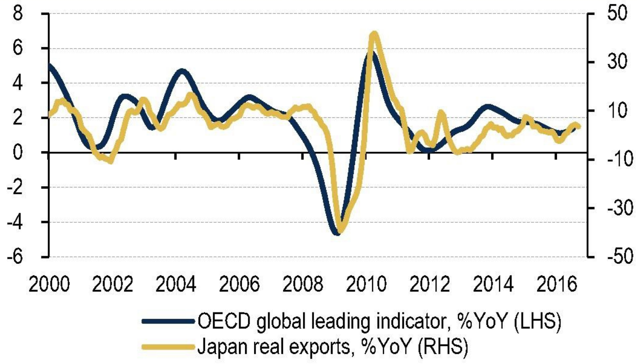
The recent recovery has been driven by a fading consumption tax shock and stronger exports. The downturn in the global industrial cycle in 2014-16 hurt Japan, but manufacturing activity bottomed out early this year and is now modestly expanding (Chart 2). The OECD leading indicator continues to signal a synchronized pick-up in global growth (Chart 3). The domestic inventory cycle also points to production gains ahead (Chart 4). For Japanese exporters, the improvement in demand has been most visible for Europe (Chart 5). US and Chinese demand will likely follow, though the mainland's structural shift to services implies only a modest acceleration. We expect the current up-cycle in global exports to be sustained through Q3 CY17 – possibly longer depending on developments in the US (more on this later). The combination of stronger external demand and a weaker currency should shore up business confidence, especially among manufacturers, and lay the foundations of Japan's recovery.

**Chart 2: Industrial activity has bottomed out**



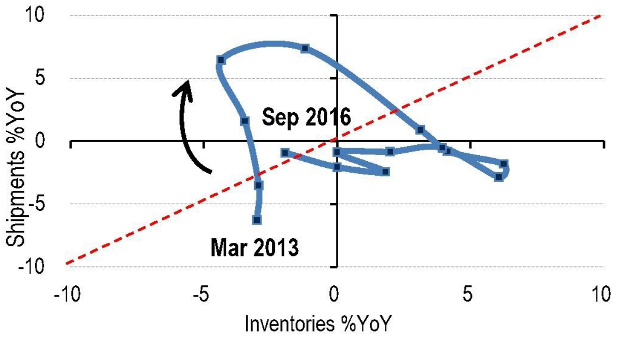
Source: BofA Merrill Lynch Global Research, METI, BoJ

**Chart 3: OECD leading indicator points to modest global expansion**



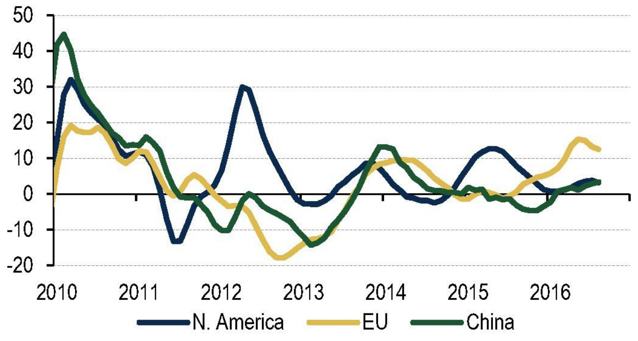
Source: BofA Merrill Lynch Global Research, OECD, BoJ

**Chart 4: The shipment-inventory cycle points to production gains ahead**



Source: BofA Merrill Lynch Global Research, METI

**Chart 5: Japan's real exports by destination, 3mma %YoY**



Source: BofA Merrill Lynch Global Research, BoJ

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[1] Japan will switch to SNA2008 methodology, starting with the release of revised Q3 CY16 GDP due 8 December 2016.

## Automatic easing

Policy headwinds are also abating: for the first time since 2013, both fiscal and monetary policy are poised to turn stimulatory in 2017.

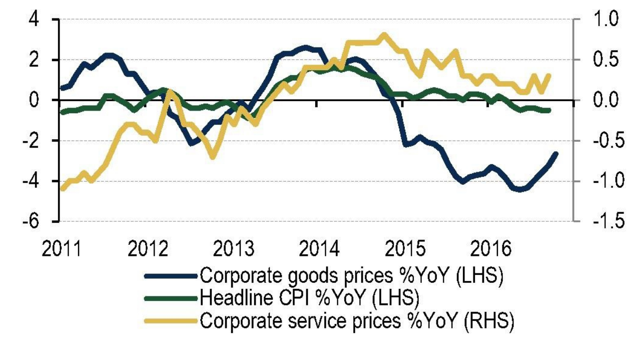
### Monetary policy: BoJ pegs to zero

The BoJ's transition to yield-curve targeting ensures that real yields will drop as inflation picks up, implying that financial conditions will turn increasingly loose as the recovery progresses. There are good reasons to be cautiously optimistic: after all, despite a triple whammy of weak domestic demand, weak commodity prices, and a stronger yen, Japanese inflation measures are showing early signs of bottoming out (Chart 6).

We expect Japan-style core inflation (CPI ex fresh food) to trough in Q4 CY16, after which it should accelerate relatively quickly in the first two quarters of 2017 in response to 1) a recovery in crude oil prices, 2) a weaker yen (we assume USDJPY rebounds to 120 by the end of the year), and 3) stronger wage growth. This also implies stronger core-core inflation (CPI ex food & energy). We are bullish on all three factors and see CY17 core inflation running at an above-consensus 1.0% and 1.4% in CY18.

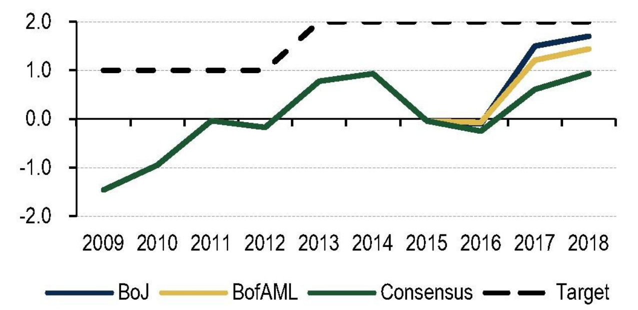
This is still short of the central bank's 2% target (Chart 7). But we believe there will be little pressure to lower rates further, especially against the backdrop of a weakening yen and rising global yields. More broadly, things are moving in the right direction for the BoJ. The private sector has been steadily re-leveraging, albeit gradually. Meanwhile, labor markets continue to tighten and wage growth is slowly improving: the 4-quarter moving average for hourly wages is now up to 1.2% y-o-y (Chart 8). With the labor market for lower-cost part-time workers nearing saturation, growth in higher-quality, full-time jobs is picking up (Chart 9). We expect a moderation in employment gains and faster wage growth ahead.

**Chart 6: Produce and consumer price inflation (ex-tax effect)**



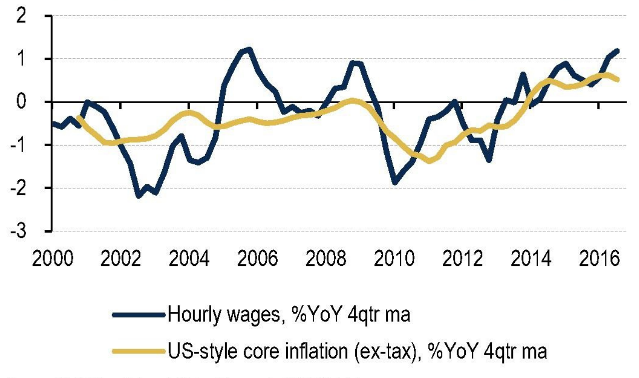
Source: BofA Merrill Lynch Global Research, MIA

**Chart 7: Japan-style core inflation (CPI ex fresh food) forecasts (FY basis)**



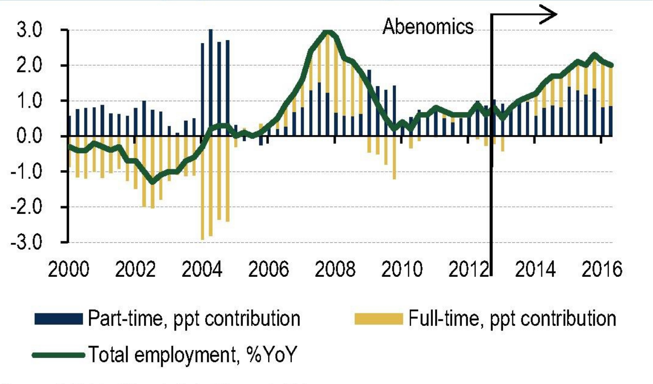
Source: BofA Merrill Lynch Global Research, BoJ, JCER *Consensus is JCER ESP survey

**Chart 8: Wage growth is picking up on the back of tight labor markets**



Source: BofA Merrill Lynch Global Research, MHLW, MIA

**Chart 9: Full-time job growth is accelerating**

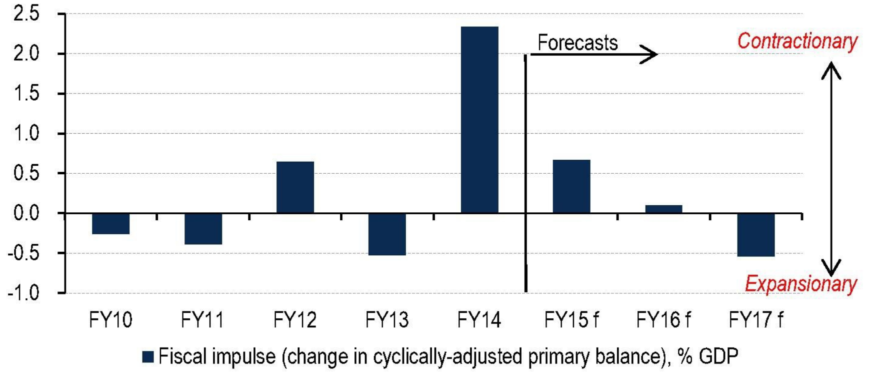


Source: BofA Merrill Lynch Global Research, MIA

## Fiscal policy: turning looser in FY17

Fiscal policy is undergoing an equally important shift. In August, the Cabinet approved an economic stimulus package totaling JPY28trn (roughly 5.5% of GDP). Though "real water" government spending is a comparatively modest JPY7.5trn (1.5% of GDP), this is enough to put the fiscal impulse back in expansionary territory, after three years of tightening (Chart 10). The stimulus measures, which are centered on public investment and cash transfers to households, should boost CY2017 GDP by 0.5ppt. Public construction orders are already rebounding as the government front-loaded public infrastructure spending (Chart 11). Meanwhile, the next stage of the consumption tax increase has been postponed until October 2019.

**Chart 10: After 3 years of tightening, fiscal policy to turn loose in FY17**

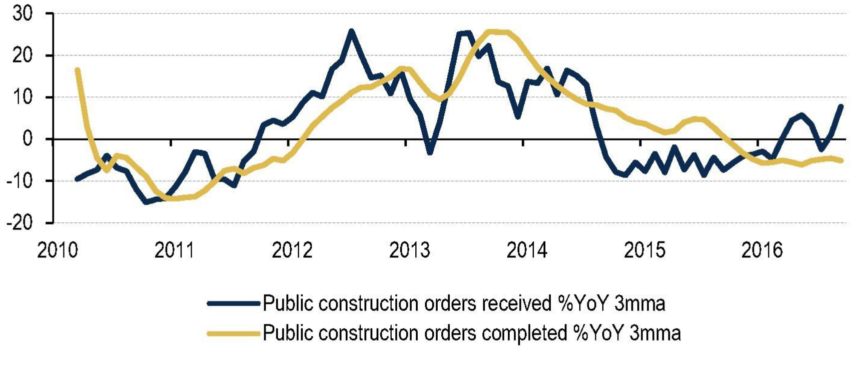


Source: BofA Merrill Lynch Global Research, IMF, CAO

To be clear, we are not talking about massive shifts in the fiscal stance here—the Ministry of Finance remains very much opposed to expanding the deficit and Prime Minister Abe has yet to abandon the government's long-standing goal of balancing the primary balance by FY2020.

However, there is a growing consensus among Japanese policymakers that premature fiscal tightening is counter-productive for reflation efforts, especially when monetary policy is stretched. Even BoJ Governor Kuroda, who initially underplayed the risks from 2014 fiscal tightening, has recently acknowledged that loose monetary and fiscal policies will have a "synergistic effect." The upshot is that the risk of another policy error is low, in our view. If anything, we see upside risks from greater fiscal stimulus in the form of a third supplementary budget or relatively aggressive FY17 ordinary budget. We would not rule out further delays to the October 2019 consumption tax hike, either.

**Chart 11: Public investment is poised to pick up in the months ahead**



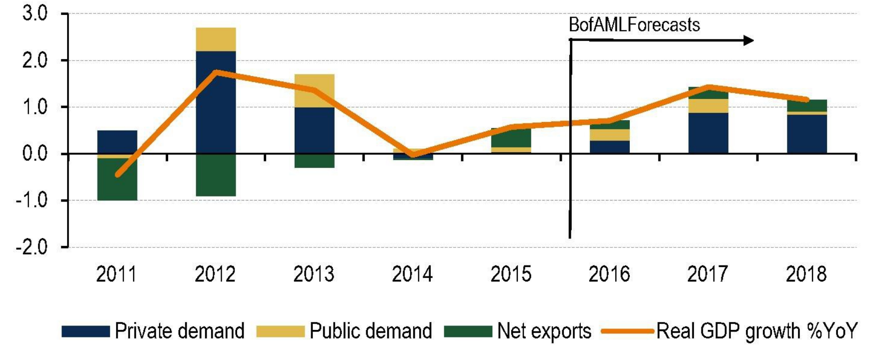
Source: BofA Merrill Lynch Global Research, MITI

## 2017: a good year for domestic demand

Policy tailwinds are only one pillar of our call for Japan's outperformance in 2017. We also believe the stars are aligning for an organic improvement in domestic demand, which would support the current recovery: the economy is firing on all cylinders for the first time since 2013, and growth should accelerate to 1.4% in CY2017, followed by 1.2% expansion in CY2018 (Chart 12).

We see three catalysts: a consumer comeback, stronger capex, and a shift in income away from high-saving corporations in favour of higher-spending households and stockholders.

**Chart 12: Steady improvement in growth, led by domestic demand**



Source: BofA Merrill Lynch forecasts, CAO

### 1. Consumer comeback

Households have been the noticeable laggard in the current recovery and the main reason why Japan's economy has barely grown since the 2014 consumption tax hike. This is not for a lack of income growth: real employee compensation (wages + employment) has staged an impressive recovery of late, rising 1.2% in CY15, and an estimated 1.9% in CY16 (Chart 13).

One explanation is that private consumption is simply being underestimated in demand-side GDP statistics: researchers at the Bank of Japan recently produced experimental supply-side estimates of GDP that were significantly higher than existing expenditure-side statistics.[2] We find the BoJ research interesting and agree that Japanese consumption statistics are beset by data quality issues. But this alone cannot account for the consumption slump. We think two factors are equally to blame for depressed household spending: 1) a squeeze on disposable income from higher taxes and social security contributions; and 2) a surge in the saving rate (Chart 14).

Calling Japan right in 2017 is largely about correctly forecasting whether these two trends will reverse. We see several reasons for optimism. First, we expect real employee compensation to accelerate further, driven by a continued pick-up in per capita wages. The call on the saving rate is admittedly trickier. But having surpassed the 2006 highs, we think it is unlikely to surge further, given that consumer confidence is improving and income growth is firming. FY17 tax reforms are also likely to support household sentiment at the margin: for example, discussions are underway about enlarging tax cuts for second-earners who work part-time. Overall, we expect private consumption to rise 1.0% in CY17, adding 0.6ppt to growth.

Should the saving rate stabilize, as we expect, consumption should again start rising in tandem with compensation. Investors should not have to wait long to get some visibility around these trends. We expect the saving rate to peak in Q4 CY16 and consumption to rise strongly from this quarter.

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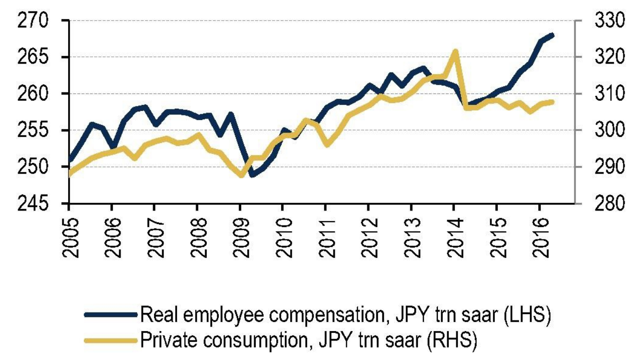
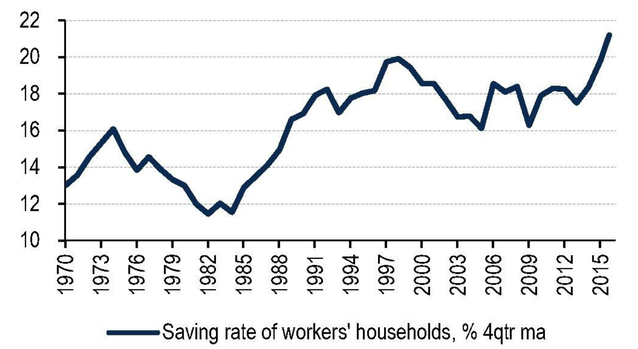
[2] Link to the research paper (in Japanese only): https://www.boj.or.jp/research/wps_rev/wps_2016/data/wp16j09.pdf

**Chart 13: Real labor income and private consumption**



Source: BofA Merrill Lynch Global Research, CAO

**Chart 14: Workers' saving rate at all-time high**



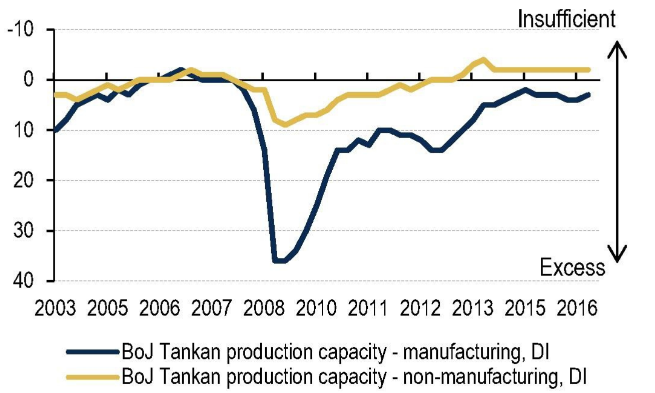
Source: BofA Merrill Lynch Global Research, MIA

## 2. Capex revival

We also see a fundamental case for higher capital spending. Borrowing rates are very low and will fall further in real terms as inflation rises. Stronger growth and improved confidence should also encourage higher capex. And deepening supply-side constraints offer a strong incentive for Japan Inc. to accelerate productivity-enhancing capex, ensuring that this expansion is durable.

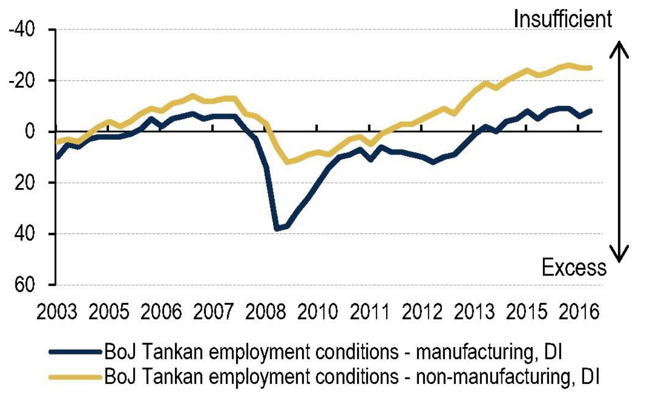
For these reasons, we think that the impulse of capital expenditures will likely be higher in the non-manufacturing sector, where capacity utilization rates are higher, and labor shortages (and hence wage pressures) are more acute (Chart 15 and Chart 16).

**Chart 15: Capacity utilization rates by sector**



Source: BofA Merrill Lynch Global Research, BoJ

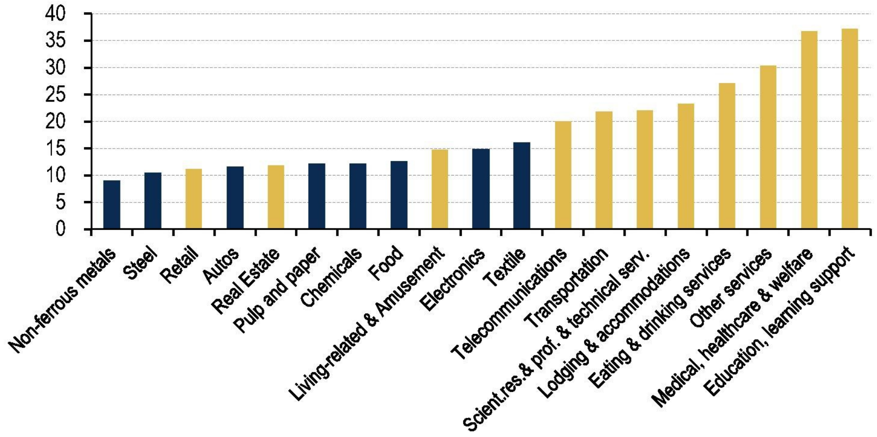
**Chart 16: Labor shortages by sector**



Source: BofA Merrill Lynch Global Research, BoJ

Chart 17 shows the ratio of personnel costs to sales, using MoF corporate survey data. The ratio is particularly high for lodging & accommodations (23%), eating & drinking services (27%), medical, healthcare & welfare (37%) and education & learning support (37%). Somewhat surprisingly, personnel expenses are fairly restrained in retail. But this is partly due to the relatively heavy reliance on lower-cost part-time workers. Given the rapid growth in part-timers' wages, such cost savings is likely to become increasingly difficult to maintain.

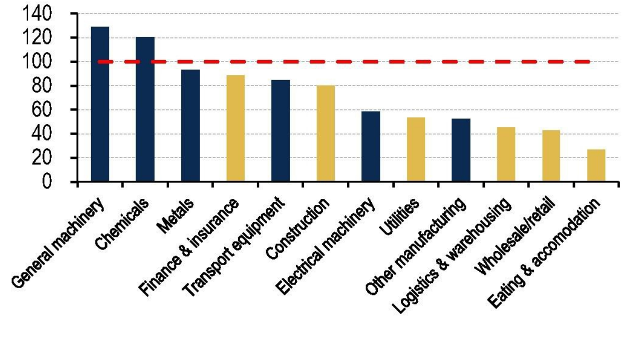
**Chart 17: Personnel costs to sales, % ratio 4qtr ma (as of Apr-Jun 2016)**



Source: BofA Merrill Lynch Global Research, MoF

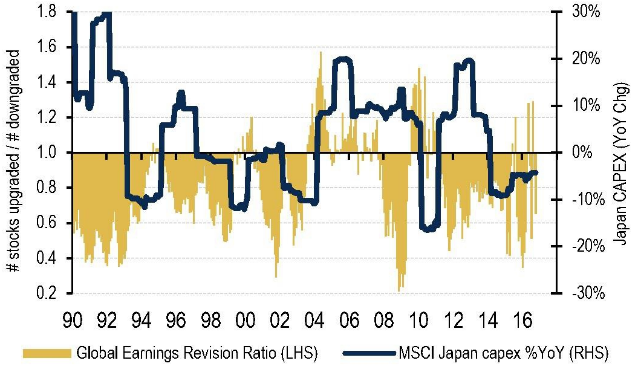
Analysis by METI suggests that many of these non-manufacturing industries have the scope to raise productivity. Wholesale/retail, utilities, and eating & accommodation have particularly low levels of productivity relative to the US (Chart 18). We think the solution is to boost capex, especially in ICT and automation. More broadly, an acceleration in capex is needed if we are to see a pick-up in productivity and sustained profits. Though we are by no means in the late stages of the profit cycle, the trend clearly points to higher wage costs going forward, requiring proactive efficiency-enhancing investment by corporates. Bottom-up data capex data for MSCI Japan also suggest that the investment cycle has troughed and will pick up next year as earnings momentum improves (Chart 19).

**Chart 18: Japan's labor productivity relative to the US: services is low (2003-07)**



Source: BofA Merrill Lynch Global Research, METI

**Chart 19: Capex – YoY change in Japan vs Global Earnings Revisions**



Source: BofA Merrill Lynch Global Quantitative Strategy

## 3. Policy priorities and redistribution

We think an increase in government pressure on corporations could speed up income redistribution at the margin, ensuring that money circulates to those sectors and agents with a higher propensity to consume. Elevated corporate savings remain a focal point for the government. Cabinet Office officials have used the concept of the "cash-out ratio"[3] to highlight the creaky transmission from corporate profits to spending. Chart 20 shows that this measure has been on a steady downtrend, with the numbers particularly low for large corporates.

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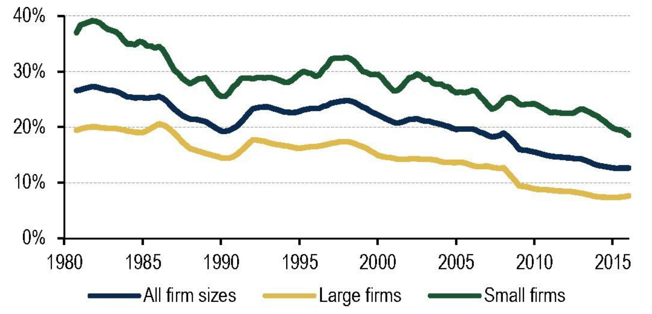
[3] The idea of the "cash-out" ratio was first raised by private sector representatives of the Council on Fiscal and Economic Policy. The measure is defined as cash out / cash and deposits. The numerator includes capex, personnel expenses, R&D, dividends, and changes in equity investments in related companies. The denominator includes cash and deposits, and securities, short-term lending, and investment securities classified under liquid assets. Since we are restricted to Ministry of Finance Corporate survey data, our version of the "cash-out ratio" is defined as capex + personnel costs + dividends / cash and liquid assets.

So far, the government's approach has relied more on carrots than sticks, with Prime Minister Abe using a combination of moral suasion and sweeteners to encourage firms to disgorge profits. The pattern has continued as we approach FY2017. For example, local media have reported that the government is considering offering corporate tax breaks to SMEs that raise wages, in light of more modest wage growth at SMEs. Discussions are also underway in the Prime Minister's office about reforming working practices with the immediate focus on "Equal Pay for Equal work (EPEW)"—i.e. reducing the wage gap between regular and non-regular employees.

But the issue is contentious from both a capital and labour perspective. And considering the time it will likely take for related legislation to pass in the Diet, we think the lack of compliance mechanisms may mean that the immediate impact of EPEW will be limited. Instead, the debate seems to have shifted towards limiting excessive and unproductive overtime work. This is low-hanging fruit that does not address the issue of Japan's labour market rigidities, which are at the heart of the problem of suppressed wages and weak household spending power.

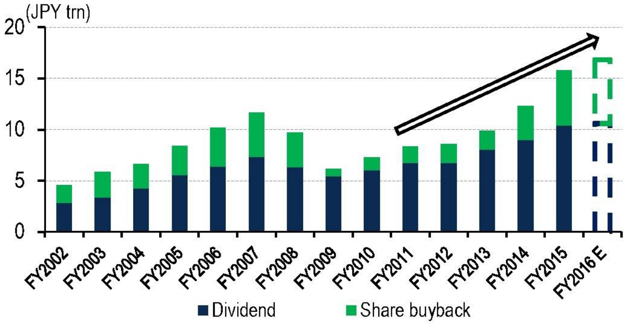
That said, there are signs that the government's patience is wearing thin and that the Prime Minister is increasingly leaning towards direct intervention. For example, the government has already delivered a minimum wage hike in FY2016 and plans to take the national average up to JPY1,000 by 2020 via yearly hikes of 3%. These policy changes should offer small tailwinds for the recovery in private consumption. We also think the debate over a possible retained earnings tax is unlikely to go away. We are sceptical it will be introduced in this year's tax reforms. However, the government's escalating war on corporates hoarding cash is likely to lead to a continued rise in dividend payouts and share buybacks (Chart 21).

**Chart 20: Firms' cash-out ratio*, % 4qtr ma**



Source: BofA Merrill Lynch Global Research, MoF *The cash-out ratio is defined as personnel expenses, capex, and dividend payouts as a share of cash and liquid asset balances

**Chart 21: Dividends and share buybacks by Japanese firms (TSE 1st section listed)**



Source: Nikkei Astra, BofA Merrill Lynch Global Research
Note: FY2016 dividend is companies' guidance. FY2016 share buyback is estimated by annualizing the YTD numbers as of November 2016

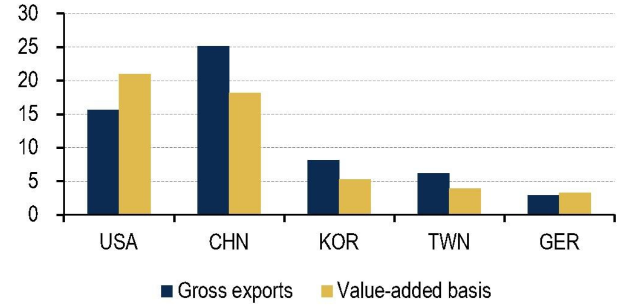
## Risk factors: largely from overseas

A key risk to our 2017 outlook on the domestic side may be weaker-than-expected growth in real labor income, or a continued surge in the household saving rate, which would constrain consumption.

However, we think the biggest risks in either direction stem from abroad. Specifically, we see higher uncertainty over global trade, risk sentiment, and FX as a result of political transitions in the US and Eurozone. We consider multiple policy scenarios under a Trump presidency.

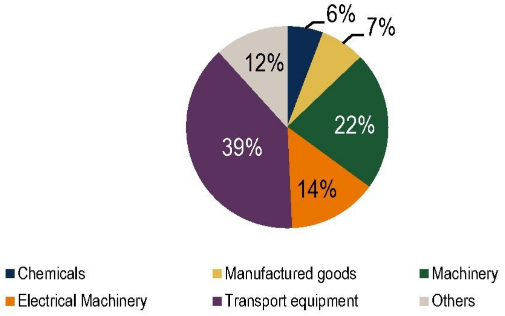
Trump's campaign promises have mixed implications for Japan. On a positive note deregulation, tax cuts, and aggressive infrastructure spending could boost US aggregate demand. Our US economics team expects the stimulus to boost growth in H2 CY17 and likely CY18. Japan should be a big winner from stronger US growth, given its high exposure to the US economy in terms of exports and corporate profits (Chart 22 and Chart 23). On the negative side, aggressive protectionist trade measures, if implemented, would depress US growth and global trade further. If combined with a stronger yen, Japan's economy would be hit hard.

**Chart 22: Japan's export exposure (% of total gross and value-added exports*)**



Source: OECD

**Chart 23: Breakdown of Japan exports to US by commodity, 2015**



Source: BofA Merrill Lynch Global Research, MoF

### Base case: "benign Trump" scenario

For the moment, we are assuming limited positive and negative policy changes. Our US team expects uncertainty to cause a modest slowing of growth in the first half of next year, but this will be more than offset by fiscal stimulus in the second half and into 2018. But the size of the fiscal expansion will likely be smaller than promised, and the introduction of modest protectionist measures means that the boost to global trade will essentially be zero. Table 1 shows the impact on growth under two scenarios, based on different assumptions for global trade and FX. Under the upside case, Japan's GDP could rebound towards 2%, as the economy benefits from a combination of stronger global trade and a weak currency. Under a downside "protectionist" scenario, 2017 growth would slow to around zero and would most likely tip Japan back into deflation.

**Table 1: Sensitivity of Japan's growth to global trade and foreign exchange rate**

| (Assumptions) | Baseline | Case 1 - Upside | Case 2 - Downside |
|---|---|---|---|
| Global trade | 0.0% | 3.0% | -10.0% |
| % JPY appreciation (*) | -7.0% | -10.0% | 10.0% |

| (Simulation results) | Change | (Contribution) (**) | Change | (Contribution) (**) | Change | (Contribution) (**) |
|---|---|---|---|---|---|---|
| Real GDP impact | 0.2ppt | — | 0.9ppt | — | -1.4ppt | — |
| Consumption | 0.0% | (0.02ppt) | 0.3% | (0.15ppt) | -0.8% | (-0.44ppt) |
| Capex | 1.9% | (0.26ppt) | 2.9% | (0.40ppt) | -3.2% | (-0.44ppt) |
| Net Exports | — | (0.00ppt) | — | (0.30ppt) | — | (-0.23ppt) |

Source: BofA Merrill Lynch Global Research, CAO, MoF, IMF

(*) Rate of appreciation of Japanese yen in terms of effective exchange rate

(**) Contributions to the change in real GDP

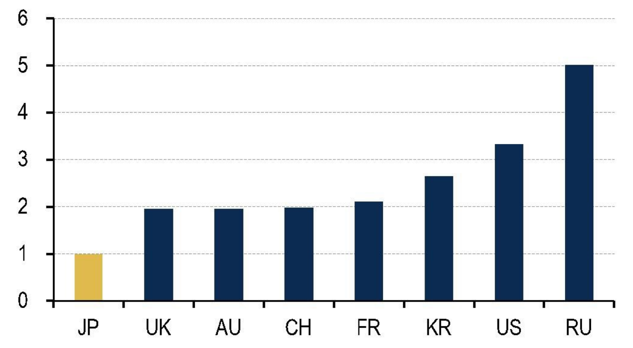
## Political impact of a Trump administration

For Japan, the impact of Trump's election goes beyond economic issues. It also impacts defense spending and regional trade arrangements.

### Military self-reliance and budget choices

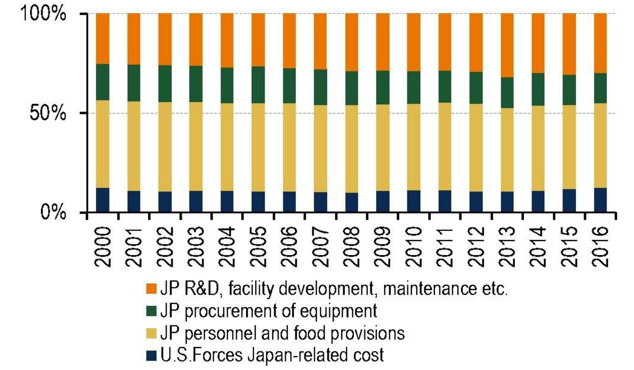
Trump has made it clear that he wants allies of the US to shoulder a greater share of the defense burden. There is a lot of uncertainty as to how far Trump will go to re-define the US-Japan alliance. Despite his criticism, Japan already pays about 75% of US military hosting costs. However, it seems fair to assume that Japan will be expected to increase its defense spending. Under Prime Minister Abe, the defense budget has expanded by 7% but has been kept at roughly 1% of GDP, in keeping with historical guidelines. This is small by international standards and more likely than not will rise in the coming years (Chart 24). The composition of spending is also likely to shift from operating costs towards procurement, which is currently a very small part of the budget (Chart 25).

**Chart 24: Military spending % of GDP as of 2015—Japan's is low by int'l standards**



Source: BofA Merrill Lynch Global Research, World Bank

**Chart 25: Breakdown of Japan's defense-related expenditures**



Source: BofA Merrill Lynch Global Research, Ministry of Defense

### TPP and trade policy: potential for linkages with other regional players

Trump and his aides have made it clear that they consider the Trans Pacific Partnership (TPP) to be a "bad deal." Media have reported that President Obama is not considering pushing the deal through a lame duck Congress. This means the deal is likely dead in its current form.

While negative for Japan, the expected withdrawal of the US from TPP could spur new arrangements with regional partners. One potential positive is the prospect of improved economic and trade linkages with other key players in the region, including Russia and even China. Three upcoming events are worth monitoring closely (Table 2): first, the 19-20 November APEC Summit in Lima, Peru, where we are likely to see vigorous discussions on the future of the TPP as well as further progress on the Regional Comprehensive Economic Partnership (RCEP); second, the 15 December Abe-Putin Summit, in Yamaguchi prefecture; and third a potential trilateral summit between Japan, China, and Korea, which onshore media now say is being scheduled for 19-20 December, though it may not happen given the unfolding leadership upheaval in Korea.

## Bullish bottom line – don't underestimate the recovery

We are optimistic on Japan and think the acceleration in GDP and inflation in 2017 will be much stronger than consensus expects. For the first time since 2013, fiscal and monetary policy will be lined up in the same expansionary direction. The global export cycle has turned and is now tracking modest expansion. Meanwhile, the headwinds to domestic demand are finally turning into tailwinds. Unlike in the past, we think the risks of a policy error are low. Assuming that external risks are kept at bay, we think Japan will surprise with the strength of its recovery.

**Table 2: Calendar of political events**

| Date | Event |
|---|---|
| 2016 | |
| Sep 26 - Nov 30 (to be extended) | Extraordinary Diet session (supplementary budget, TPP, tax-hike delay, casino bill) |
| Nov 15 | Japan-Russia trade officials meet (Tokyo) |
| Nov 17 | Abe, Trump meet in New York |
| Nov 19-20 | Abe, Putin meet at APEC (progress on territorial issue a key public concern) |
| Dec 8 | Jul-Sep GDP 2nd preliminary (change to 2008SNA)<br>Outline of FY2017 Tax Reform to be released |
| Dec 15-16 | Russia's Putin to visit Abe in Yamaguchi prefecture |
| Dec 24 | Cabinet to compile FY17 budget |
| | |
| 2017 | Ordinary Diet session (Jan)<br>LDP annual convention (Mar 5)<br>Tokyo parliamentary election (summer) |
| 2018 and later | |
| 2018 | Governor Kuroda's term ends (Apr)<br>Abe's second term as LDP President ends (Sep)<br>Lower House election if no snap election before (Dec) |
| 2019 | Nationwide local elections (spring)<br>Upper house election (summer)<br>Consumption tax hike (Oct) |
| 2020 | Tokyo Olympics |
| 2021 | LDP Presidential term ends |

Source: BofA Merrill Lynch Global Research

**Table 3: Economic forecast summary**

| | | Calendar Year | | | | Fiscal Year | | | | Quarterly | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | 2015 (A) | 2016 (F) | 2017 (F) | 2018 (F) | 2015 (A) | 2016 (F) | 2017 (F) | 2018 (F) | 3Q16 (A) | 4Q16 (F) | 1Q17 (F) | 2Q17 (F) | 3Q17 (F) | 4Q17 (F) | 1Q18 (F) |
| Real GDP | (%,qoq ann.) | 0.6 | 0.7 | 1.4 | 1.2 | 0.9 | 1.1 | 1.4 | 1.2 | 2.2 | 0.3 | 2.1 | 1.5 | 1.0 | 2.4 | -0.1 |
| Private Consumption | (%,qoq ann.) | -1.2 | 0.4 | 1.0 | 1.2 | -0.1 | 0.6 | 1.1 | 1.3 | 0.2 | 1.0 | 1.2 | 1.0 | 1.4 | 1.4 | 0.8 |
| Private Capex | (%,qoq ann.) | 1.6 | 0.6 | 1.7 | 3.2 | 2.1 | 0.7 | 2.4 | 2.9 | 0.1 | 5.0 | -0.8 | 1.4 | 2.5 | 7.0 | 3.1 |
| Private Resid. Investment | (%,qoq ann.) | -2.5 | 5.3 | 0.3 | 1.1 | 2.4 | 6.4 | -1.3 | 1.7 | 9.6 | -2.0 | -2.0 | -3.9 | -5.9 | 6.1 | 1.6 |
| Government Consumption | (%,qoq ann.) | 1.2 | 1.6 | 0.8 | 1.0 | 1.6 | 1.1 | 0.9 | 1.1 | 1.7 | 0.8 | 0.6 | 1.2 | 0.8 | 0.8 | 0.8 |
| Public Investment | (%,qoq ann.) | -2.5 | -1.5 | 3.1 | -2.1 | -2.7 | 0.9 | 1.4 | -0.7 | -2.7 | 1.6 | 8.2 | 14.8 | -11.5 | -7.8 | -3.9 |
| Exports of Goods & Services | (%,qoq ann.) | 2.8 | -0.3 | 5.3 | 3.1 | 0.4 | 0.9 | 5.8 | 2.3 | 8.1 | 4.5 | 4.5 | 5.9 | 11.0 | 4.6 | -3.0 |
| Imports of Goods & Services | (%,qoq ann.) | 0.4 | -1.3 | 3.9 | 1.8 | 0.0 | -0.4 | 4.3 | 1.4 | -2.4 | 9.0 | 2.0 | 4.6 | 11.8 | -1.9 | -1.6 |
| Contribution points | | | | | | | | | | | | | | | | |
| Domestic Demand | (%,yoy) | 0.2 | 0.5 | 1.2 | 0.9 | 0.8 | 0.8 | 1.1 | 1.0 | 0.2 | 1.1 | 1.7 | 1.2 | 1.1 | 1.3 | 0.2 |
| Net Exports | (%,yoy) | 0.4 | 0.2 | 0.3 | 0.2 | 0.1 | 0.2 | 0.3 | 0.2 | 2.0 | -0.8 | 0.4 | 0.2 | -0.1 | 1.1 | -0.3 |
| Industrial Production | (%,qoq) | | | | | | | | | 1.4 | 0.7 | -0.6 | 1.6 | 2.5 | 1.4 | -0.9 |
| | (%,yoy) | -1.2 | -0.8 | 3.5 | 3.6 | -1.4 | 0.4 | 4.2 | 3.0 | 0.4 | 1.2 | 1.7 | 3.1 | 4.2 | 4.9 | 4.6 |
| Nationwide BOJ-style Core CPI | (%,yoy) | 0.5 | -0.3 | 1.0 | 1.4 | 0.0 | -0.1 | 1.2 | 1.4 | -0.5 | -0.1 | 0.7 | 0.7 | 1.3 | 1.4 | 1.4 |
| Nationwide US-style Core CPI | (%,yoy) | 1.0 | 0.4 | 0.4 | 1.1 | 0.6 | 0.3 | 0.6 | 1.3 | 0.2 | 0.1 | 0.2 | 0.2 | 0.5 | 0.7 | 0.9 |
| Unemployment Rate | (%) | 3.4 | 3.1 | 2.9 | 2.7 | 3.3 | 3.1 | 2.8 | 2.6 | 3.1 | 3.0 | 3.0 | 2.9 | 2.9 | 2.8 | 2.8 |
| BoJ ST interest rate target | (End of period) | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 | -0.1 |
| BoJ LT interest rate target | (End of period) | n/a | 0.0 | 0.0 | 0.0 | n/a | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Yen/$ | (End of period) | 120.2 | 108.0 | 120.0 | 115.0 | 112.6 | 112.0 | 115.0 | 115.0 | 101.4 | 108.0 | 112.0 | 115.0 | 117.0 | 120.0 | 115.0 |
| Yen/Euro | (End of period) | 130.6 | 116.6 | 126.0 | 121.0 | 128.1 | 117.6 | 124.0 | 121.0 | 113.9 | 116.6 | 117.6 | 117.3 | 119.3 | 126.0 | 124.0 |

Note: We may revise our forecasts once additional data become available.

Sources: BoJ, MoF, ESRI of Cabinet Office(EPA), MPMHAPT(MCA), METI(MITI), Ministry of Land, Infrastructure and Transport and BofA Merrill Lynch Global Research estimates.

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Japan Macro Watch

# USD/JPY: Buy-on-dip cycle to continue; 115-120 by end-2017

Bank of America Merrill Lynch

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Investment Strategy
Japan

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## Buy-on-dip cycle continues

While we had acknowledged the risk of the "final JPY strength" this autumn on the BoJ's limit and US elections, it has been our view that the USD/JPY's dips was to be bought as the 100-105 level was where medium-term directional risk was likely to reverse to the upside (Dollar's 100 Yen risk 02 March 2016). In our view, a Republican sweep would first lead to JPY strength on risk aversion, but eventually be the most bullish outcome for the USD/JPY. The price action last week – a shallow dip – tells us two things about the USD/JPY. First, the view that a GOP sweep would boost the USD/JPY was probably more widely shared than we had thought, so a dip failed to stretch. Second, there may be more potential USD/JPY buyers than sellers, which is in stark contrast to last year, when there were many more potential USD/JPY sellers than buyers (Case for a stronger yen in 2016 18 December 2015). The "buy-on-dip" cycle in USD/JPY is likely to continue as we expect the pair to reach 115-120 by end-2017. We remain constructive about Japanese equities and see banks, insurance continue outperforming REITs near-term.

## Higher US rates (esp. if steepening) to boost USD/JPY

USD/JPY performs best at the time of UST bear-steepening as better risk sentiment reduces the JPY's safe haven demand and a wider yield spread increases the USD demand from Japanese investors (Exhibit 2). For our US strategists, the clean sweep means fiscal easing and higher rates, supporting their higher real rate view (A win for bond bears and USD bulls 09 November 2016). The USD/JPY has recently tracked real yield spread closely (Chart 1), and the pair is gradually producing higher carry as monetary policy is diverging between the US and Japan (Chart 2). In Japan, fiscal easing is also a possibility in light of reduced odds of TPP implementation and a potential early snap election. Any positive impact of Japanese fiscal easing on growth is likely to manifest itself in higher inflation expectations under the BoJ's yield-targeting regime, which means Japanese real interest rates can actually fall.

## Watch Abe-Trump meeting – coordination or conflict?

Given the high uncertainty, clarifications on Trump's policies on trade and currency will be important for the Japanese market going forward. A potential Abe-Trump meeting in New York this Thursday (17 Nov), as reported by Japanese media, warrants attention. We suggested that Trump presidency could potentially reduce flexibility of Abe's political and diplomatic strategy, reduce positive market risk from Japanese politics, and increase negative risk from Japan's national security. But this is not known until we see actual Trump presidency. If the President-elect shows an understanding for the existing Japan-US alliance and refrains from protectionist rhetoric, it could reduce concerns about deterioration of the bilateral relationship, supporting USD/JPY and potentially exporter shares (though reduced odds of TPP implementation is unlikely to change drastically).

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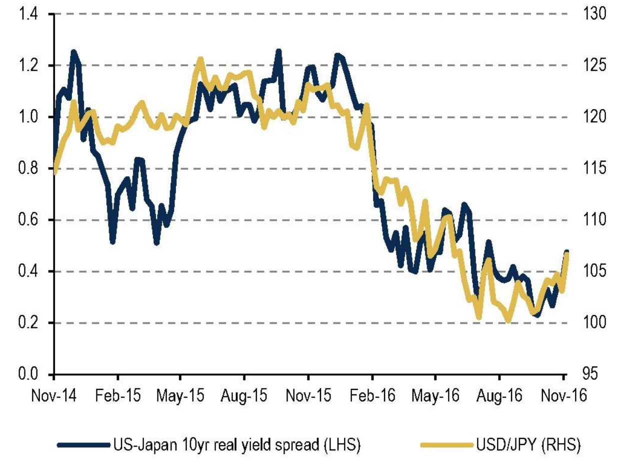
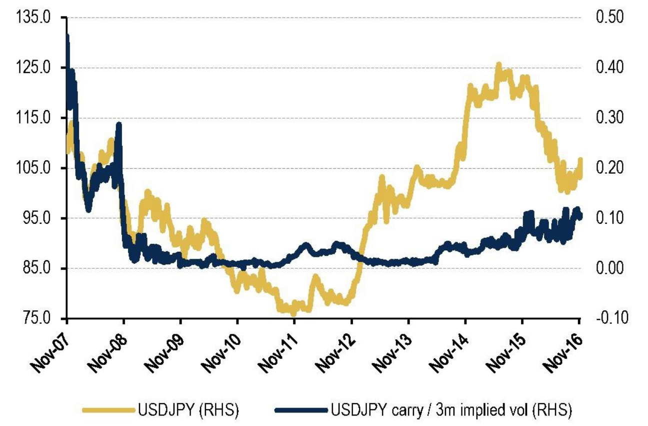
Timestamp: 13 November 2016 06:10PM EST

Chart 1: USDJPY vs yield spread



Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 2: USDJPY carry* gradually inching up

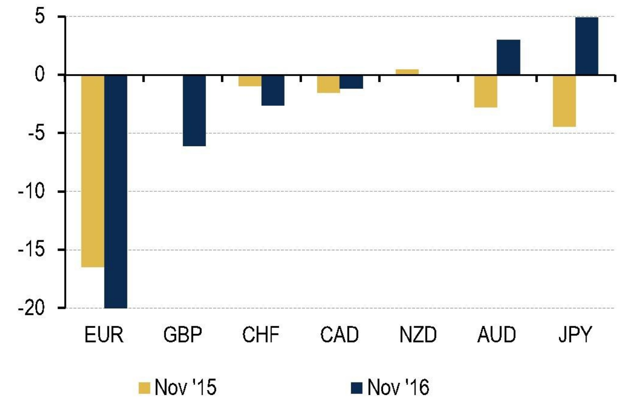


Source: BofA Merrill Lynch Global Research, Bloomberg
*Using 3m deposit rate

## JPY sellers > JPY buyers

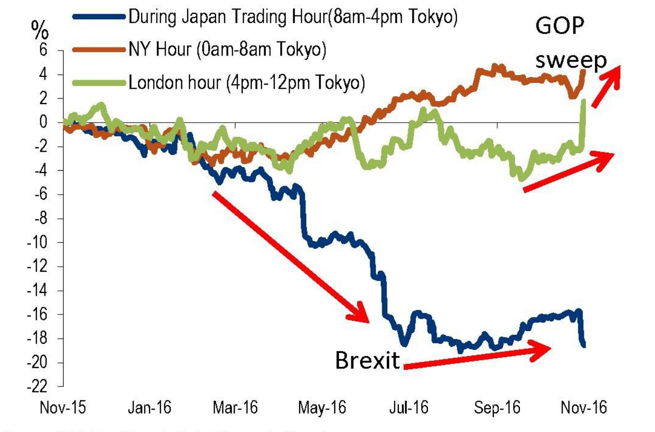
While uncertainty is high, what is more certain is that there are more potential sellers of JPY than its buyers. This is the opposite of the situation some months ago (USD/JPY's downside risk to 110 – sell on rally 10 February 2016). First, CFTC speculative position remains yen long though short-term traders are probably positioned for the upside already (Chart 3). Second, we believe domestic activity to raise hedge ratio has run its course as the USD/JPY swept through the sensitive level this year. As 2HFY16 (Oct '16-Mar '17) has started, most life insurance companies are reportedly inclined to increase exposure to unhedged foreign bonds though they generally remain price sensitive. In our view, this is reflected in the USD/JPY's consolidation during Tokyo trading hours after the pair hit 100 on the Brexit vote (Chart 4). The fact that USD/JPY has failed to break 100 multiple times since then suggests the market looking for USD/JPY's dip, light positioning, and the market's judgment that USD should be more expensive than 100 JPY. The market is probably more vulnerable to the USD/JPY's upside than downside.

Chart 3: CFTC non-commercial futures position (bln USD)



Source: BofA Merrill Lynch Global Research, Bloomberg

Chart 4: USD/JPY cumulative % change by trading zone

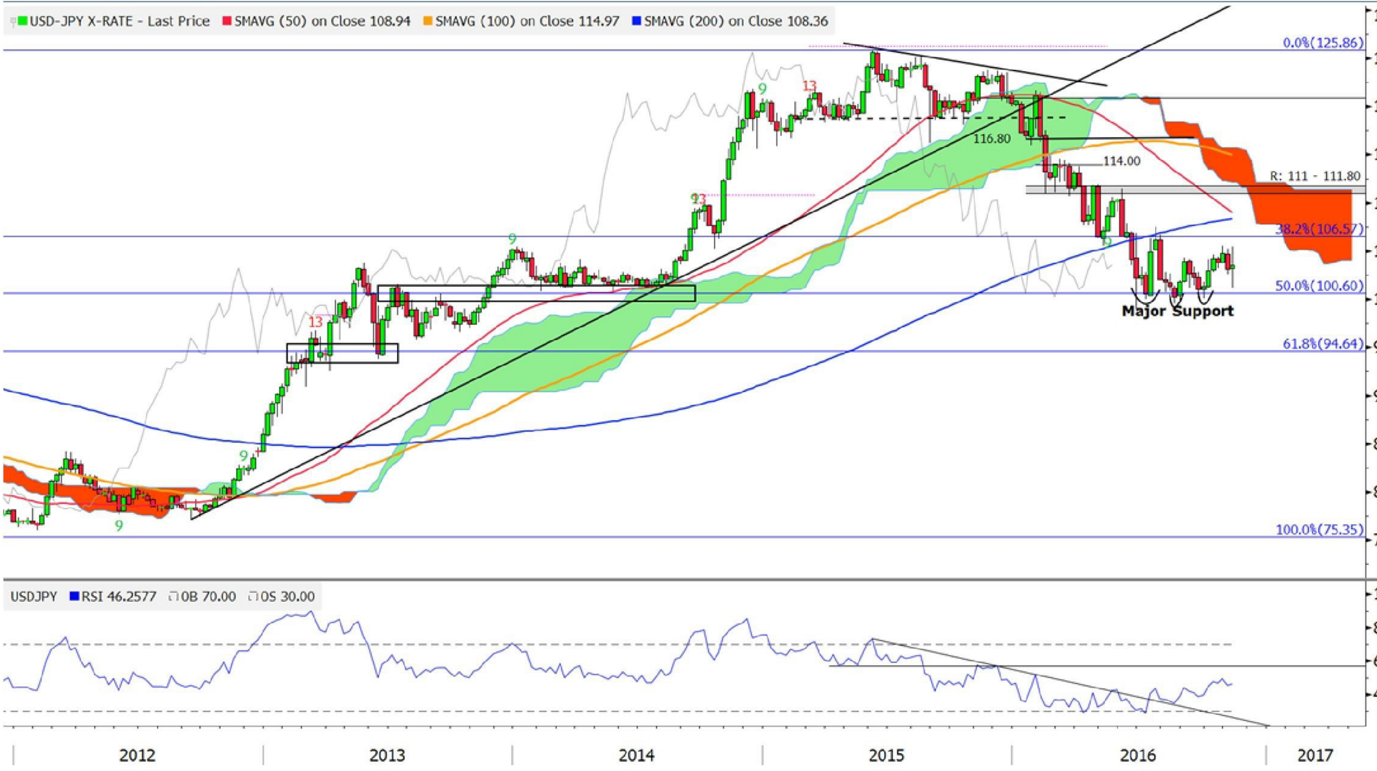


Source: BofA Merrill Lynch Global Research, Bloomberg

## Technical: constructive

Daily overbought momentum (RSI) is overall a positive for USD/JPY's uptrend. Overbought conditions can persist longer in uptrends, but at some point this could reverse. Fading high 106's could be a short-term profit-taking view, or area to enter countertrend short. A final thrust toward July highs of 107.49 is possible and an alternative profit-taking level. A pullback to 105.50 or 104.30 could certainly be bought for the broader uptrend targets of 108.47, and possibly 111.40, from the weekly chart pictured here.

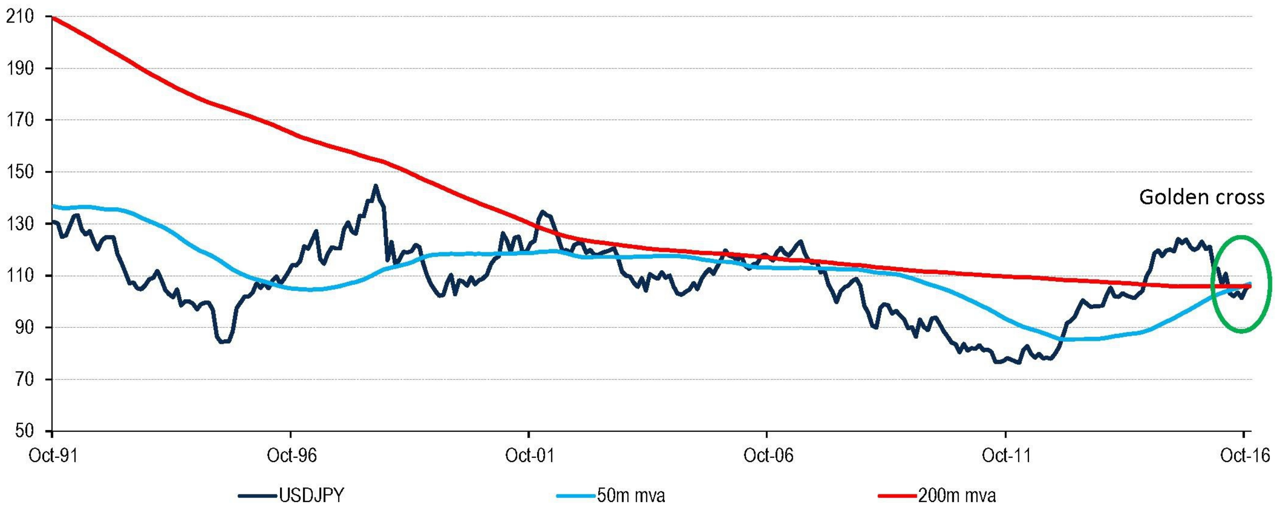
**Exhibit 1: USD/JPY weekly chart**



Source: BofA Merrill Lynch Global Research, Bloomberg

## Long-term picture: 50m average crossing 200m average

**Chart 5: USD/JPY monthly chart with 50m average and 200m average**



Source: BofA Merrill Lynch Global Research, Bloomberg

## Higher yields leading to bank, insurance outperformance over REITs

The Japanese equity market correction managed to last just for one day after the US election. The insurance sector has been the best performer since the US election on the back of a steeper US Treasury curve and higher rates. Michael Hartnett observes "violent rotation out of deflation to inflation plays", including a move from REITs to US banks. This should apply to Japan, where banks and insurance have underperformed REITs amid relentless fall of the long-term yield and introduction of negative interest rate by the BoJ (Chart 5). The domestic policy condition has changed, however, as the BoJ is now reluctant to cut rate as it pays greater attention to the health of the financial institution. The BoJ now intends to prevent the yield curve from flattening excessively. While higher foreign yields may not lift yen rates as the BoJ controls the 10-year sector, reflationary environment outside Japan at least reduces the risk of a deeper cut at home. Outperformance of Japanese equities at the time of UST bear steepening has historically been led by cyclicals, banks and insurance (Exhibit 2). David Gleeson is cautious about REITs, while Futoshi Sasaki is constructive on banks. The move can stretch further near-term.

**Exhibit 2: US Treasury curve (2s10s) move and market performance (past 43 quarters simple average, %) – USD/JPY, Japan equity (local ccy term), and Japanese cyclical, bank, insurance tend to outperform at the time of UST bear-steepening**

| | USDJPY | Dollar index (DXY) | MSCI Japan | MSCI Japan / ex Japan* | Japan sector* | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | | | | | Discretionary | Financials | Materials | IT | Industrials | Energy | Telecom | Staples | Utilities | Health care |
| Bear steep | 4.12 | -0.60 | 8.58 | 3.32 | 11.68 | 9.97 | 9.96 | 9.46 | 8.58 | 5.88 | 3.27 | 2.86 | 2.83 | 1.89 |
| Bear flat | 1.90 | 0.31 | 3.88 | 0.58 | 3.49 | -0.44 | 5.44 | 4.09 | 3.88 | 4.26 | 3.66 | 2.34 | -0.06 | 5.21 |
| Bull steep | -1.85 | -0.35 | -2.32 | -2.76 | -3.03 | -2.44 | -4.70 | -4.22 | -2.32 | -3.46 | 2.44 | 1.44 | -3.64 | -0.47 |
| Bull flat | -4.49 | 1.26 | -7.31 | -5.05 | -8.91 | -11.10 | -9.94 | -8.23 | -7.31 | -9.61 | -0.37 | -1.50 | -4.16 | -1.59 |

Source: BofA Merrill Lynch Global Research, Bloomberg

Used Bloomberg Treasury yield index.

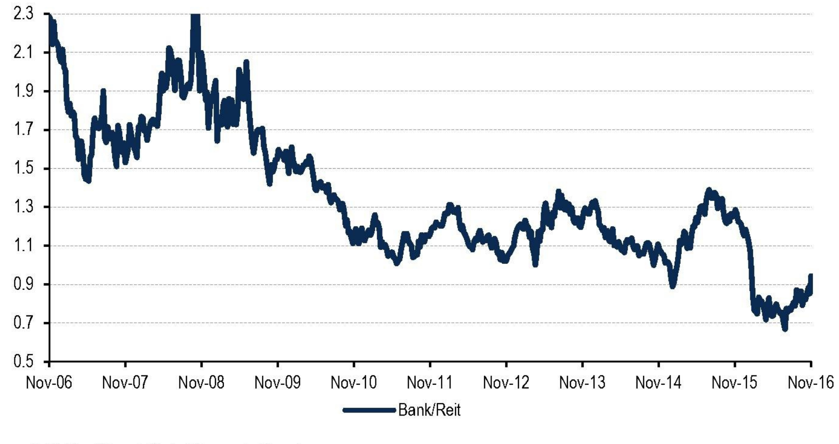
Curve movements defined based on 2yr move (up or down) and 2s10s move (up or down) so these include twist movements, but even if we exclude these, implications for USDJPY and Japan equity do not change significantly.

11 quarters of bear steepening = average 16bps increase in 2yr yields and 33bps 2s10s steepening; 10 quarters of bear flattening = average 26bps increase in 2yr yields and 20bps 2s10s flattening; 10 quarters of bull steepening = average 48bps decline in 2yr yields and 28bps 2s10s steepening; 12 quarters of bull flattening = average 27bps decline in 2yr yields and 30bps 2s10s flattening

Japan / ex-Japan = MSCI Japan / MSCI Kokusai ratio

Japanese sectors follow MSCI definition

**Chart 6: If inflation, rates surprise to upside, Japanese banks likely to outperform REITs**



Source: BofA Merrill Lynch Global Research, Bloomberg

## 3 risks – reality vs hope, higher yields, politics

The biggest risk to our view is that actual US fiscal easing turns out to be minimal. But we believe the USD/JPY's move will be quicker than whatever reality emerges in coming months. China's unexpected RMB devaluation or any explicit rhetoric to guide USD weakness by the new US administration could eventually trigger significant JPY strength. The other risk is a rapid increase in US long-term yields triggers risk-off trade, supporting Japanese yen. However, we believe a potential correction in US equity is unlikely to reverse the medium-term direction of USD/JPY (though it could cause a short-term pullback as our technical analysis suggests) because higher yields and USD/JPY are backed by fundamentals for now –prospect for fiscal easing. Finally, politics is a significant concern. The President-elect has previously criticized the Japan-US security alliance. A shift away from the Japan-US security alliance could lead to higher geopolitical risk for Japan. It could also lead to more defense spending and expansion of Japanese military capability and could lift prospect for fiscal expansion. A combination of higher geopolitical risk and defense spending is probably less bearish USD/JPY than Japanese equities.

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| Neutral | ≥ 0% | ≤ 30% |
| Underperform | N/A | ≥ 20% |

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Global Cross Asset Strategy – Year Ahead

# The Trump inflection

Bank of America
Merrill Lynch

Investment Strategy

30 November 2016 Corrected

Investment strategy
Global

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## Key takeaways

- Market response to Trump is logical but moves have been frontloaded. We now see USD & rates only modestly higher next year.
- We see higher growth and inflation, notably in Japan. **We go long NKY**, stay long EM AXJ & selective yield in equity/ credit.
- Risk is an overshoot so we stay long USD/ short rates, adding a CNH put and short 10Y real rates. CNH a hedge vs trade risk.

## Trump extends some trends, starts others

In the three weeks since Donald Trump's election victory global markets have seen some dramatic moves. Som1e of those moves are extending trends that had already started – higher yields, higher USD, rotation from long to short duration. Others are new – JPY lower, NKY higher, EM lower. The key question is how much more they can go?

## Growth/inflation higher in 17/18 - modest fiscal boost

Our economists think the fiscal impact of Trump will be modest at 0.5% on growth in H2 next year. Fiscal stimulus elsewhere also to be modest but it is taking the pressure off monetary policy. Growth was already improving so any fiscal stimulus helps. Our economists have both growth and inflation higher into 2017 and 2018.

## Inflection point in markets but much discounted already

Market moves at turning points are often violent. The task of investors is to work out how much is already discounted. Our fixed income strategists have 10Y US yields at 2.65bp and bunds at 65bp at end 2017, also EUR/USD at 1.02 so moves look frontloaded to us. That suggests their implications for other markets should fade.

## Evolution not revolution – long NKY, short 10Y real rates

If that is the case then we do not want to make wholesale changes to our strategy. We make two key changes today, adding long NKY (Japan strategist targets 20k) and short 10Y real rates trades. The former is part of our strategy to be pro-growth and we think it complements our long EM Asia trade being affected differently by USD strength.

## The hunt for yield is dead, long live the hunt for yield

If yields only rise modestly next year then the hunt for yield will live on. We keep a yield basket in European equities, AT1s and spread in Euro/US credit. We go outright long European Healthcare by lifting our Food & Beverage short, which has dropped sharply.

## Overshoot in rates, USD and trade key risks – add CNH put

The world would look very different if the US 10Y blew through 3% and the USD went on a tear, so we stay long USD and short rates. We add a CNH put vs USD as a hedge against an escalation of trade tensions under the new Trump administration.

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Timestamp: 30 November 2016 12:00AM EST

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# Current trade recommendations

**Table 1: Current cross asset trades**

| Asset | Trade idea | Strategist |
|---|---|---|
| Equities | Long European Quality Yield Screen (yield) | James Barty |
| | **Long SXDP Index** | **Ronan Carr** |
| | **Long Nikkei** | **Shusuke Yamada** |
| | Long European index dividend futures | James Barty |
| | Long MSCI Asia ex-Japan | Ajay Kapur |
| Equity vol | Long RTY short SPX 2y variance swap | Nitin Saksena |
| | 3000-2850 SX5E put spread Dec 16 expiry | James Barty |
| | Long NKY short SPX Dec 18 variance swap | Benjamin Bowler |
| | Long SX5E short SPX Dec 18 variance spread | Abhinandan Deb |
| | Eurostoxx 2y/3y put calendar | Abhinandan Deb |
| FX | Short EUR/SEK | Kamal Sharma |
| | **Long USD/CNY call** | **Claudio Piron** |
| | Short GBP/USD | Kamal Sharma |
| | Long USD/AUD | Ian Gordon |
| | Long RUB/ZAR | David Hauner |
| Fixed Income | 2s-5s-10s fly | Shyam S.Rajan |
| | **Short US 10y real rates** | **Shyam S.Rajan** |
| | Paying 5y GBP real rate swap | Mark Capleton |
| Credit | Buy 30y US IG Industrial spreads | Hans Mikkelsen |
| | Buy basket of Euro AT1s | Barnaby Martin |
| | Long Xover short Main | Ioannis Angelakis |

Source: BofA Merrill Lynch Global Research. For the full methodology and reference pricing please see Appendices. **New trades in bold.**

# Themes

## Long Cyclicality

- Long Asia EM – recovering growth, earnings revisions and cheap valuation.
- Long Nikkei – growth picking up, JPY soft, 20k target.

## Long Yield

- Long European dividend yield stocks – 5% yield, big pick up over IG credit.
- Long Dec 18 SX5E dividend future – implies 4% drop from 2016, we see 4% rise.
- Long basket of AT1s – high yield, equity cushion to rise.
- Long XOver short Main – investors' reach for yield to push them towards Crossover.
- Long basket of 30Y US industrial IG spreads – further spread compression.

## Hedge the Fed/Trump

- 2-5-10 fly – 5Y part of the curve looks most vulnerable to Fed hiking.
- Short 10Y real yields – inflation breakevens have adjusted real rates have not.
- Long USD – long via USD/GBP and USD/AUD, we think policy divergence will drive USD stronger if the Fed tightens as our economists expect.
- Long USD/CNH 7.6 6 month call – hedge against trade tensions

## Hedge the Rest

- We are long SX5E, NKY and RTY vs SPX variance. Carry positive, convex in a sell-off.
- Long Dec 17/18 SX5E put spread. Long 3000-2850 Dec 16 put spread.

## Alpha Trades

- Long European Pharma. Sector discounting no pipeline, valuation back to cheapest since 2011. Solid yield too.
- Paying 5y UK real rates at -254bp. Implied inflation/rates inconsistent.
- Long RUB/ZAR (positive on oil, cautious on S African politics).
- Short EUR/SEK, strong Swedish growth, limiting room for Riksbank easing.

# The Trump inflection

**Changes today: Add NKY long, 10Y real rate short and CNH put, close forward Kospi vol and Food & Beverage short.** We are not making mass changes today. While some of our trades have worked better than others post-election we are broadly happy with the balance. We still want exposure to growth and to own yield where we can but also want to protect ourselves from a further surge in the USD and rates.

**We diversify our equity long in EM and European yield with a long Nikkei position**. It is not the best entry point but we suspect it has further to run on a one year horizon. A stronger USD is good for Japanese equities where it is not for EM, so they complement one another. **We add a short US 10Y real rate trade** too to protect against rising US yields, as breakevens have already moved significantly. We **close our Kospi vol trade** (changed view from strategists) and **drop the short Food leg of our Pharma/Food trade**, reflecting the sharp sell-off in the long duration sectors of late.

**Summary: Still be long growth and yield but hedge with USD and Rates**

Year aheads are notoriously tricky to write and almost always wrong. Anyone who wanted to correctly predict the outcomes and how markets would react to them in 2016 did not need so much as crystal ball as a time machine. As investors and strategists we have to make calculations as to the most likely outcomes, where is the best upside to play them and how best to hedge the risks around them.

**Donald Trump's election is in our view an inflection point for global markets, starting new trends in some asset classes and extending trends in others.** It does not completely change the world though, as the disinflationary and weak growth pressures that have plagued the world since the GFC are structural rather than cyclical. But the shift to fiscal and populism is likely to boost growth and inflation, so it does change the picture to a significant degree. If we are to call it an earthquake it is perhaps a five rather than a nine on the Richter scale.

We have to adjust our way of thinking though. **The rise in rates and higher USD that we had hedged against now look like they are going to go further.** That is going to hurt longer duration assets. So we continue to run our long USD positions and add to our short rate positions (via 10Y real rates). There is risk around trade and geopolitics, which has to make us more nervous of our EM positions. So we diversify our risks by **pairing our long EM position with a long Japan position and add a CNH put**.

**But the world is not completely changing**. Even in the new order we only forecast 10Y Treasuries at 2.65% and Bund yields at 65bp end 2017. **So the hunt for yield will not disappear completely.** We still want to own yield, but as we have said of late it cannot be yield for yield's sake. Yield in equity markets has been safest in the shortest duration buckets, such as Banks and Cyclicals since the summer. We changed our yield basket last month is this direction so we keep it. We stay long AT1's and in credit we keep our spread trades both in Europe and the US.

**AND we remind investors of something we said at the start of 2016, be prepared to trade the ranges in markets.** If there was one lesson of the last year it was that. When assets get very loved and overbought, sell them, when it is the opposite you have to buy them. Think of buying EM and commodities in February. Think of selling defensive equities and bonds and buying banks post-Brexit. None of us will get that right all of the time, but the Warren Buffet maxim "be greedy when others are fearful and fearful when others are greedy" is particularly useful in current markets.

Finally, as cross asset investors **think about what can go wrong with your positions and find asymmetric hedges** for them if you can. That should be the edge you have at looking across the range of asset classes compared to single asset class investors.

We would like to thank our BofAML colleagues who have supported our product this year by providing many such ideas and trust they will continue to do so through 2017.

## X Asset Strategy: Long growth, short bonds, long USD but the hunt for yield lives on

Clearly markets are different and will continue to be so under President elect Trump BUT not everything will change. The disinflationary forces triggered by the GFC have not gone away but the decision to focus on fiscal stimulus, not just in the US but also Japan and to a lesser extent the UK, is a welcome shift taking some of the burden away from monetary policy. It means rates should be higher for any given amount of growth. But higher does not mean a return to pre GFC levels of rates, which we need to bear in mind when setting our strategy. Indeed, our strategists 10Y forecasts are US 2.65%, Euro 0.65% and Japan 0% for end 2017.

Similarly on trade, for all the rhetoric of the President-elect again we do not think he wants to trigger trade wars that would damage US growth. That means we should not necessarily drop our pro-EM bias.

So we think of it as an evolution rather than a revolution in the way our strategy is structured. We wanted to be exposed to growth, we tweak that by adding a NKY long to replace our US energy long. We continue to have yield in the portfolio where we can find it, which is through a mixture of equities and credit (AT1's, European yield basket, Xover v Main and US long date industrial spreads).

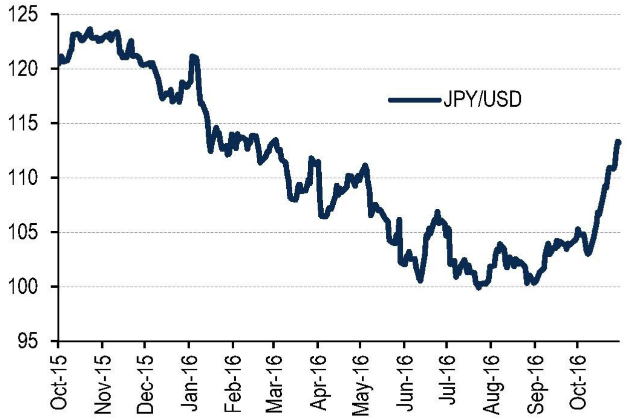
Even more than before we want to be protected against a stronger USD and higher rates, hence the addition of the 10Y real yield trade, and trade tensions which we have tried to cover through our CNH put.

## Nov 8th accelerates some trends, starts other

Before the US election we said that the tectonic plates were starting to shift, with bond yields having troughed and starting to head higher. We thought there were signs too that global growth might be shifting up a gear. So we wanted to have defensive positions in bond markets, be long the USD and be long growth where we could. The election of Donald Trump has arguably turned this gradual shifting of plates into a full blown earthquake for global financial markets.

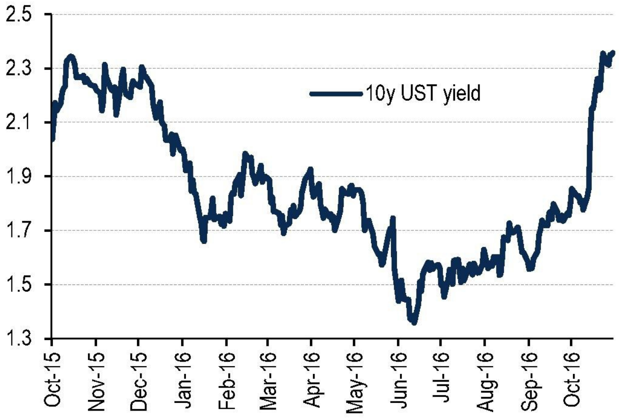
The key questions for investors as we look ahead to 2017 are how big an earthquake and how much the moves that have happened since November 8th are likely to be extended into next year vs how much we have frontloaded them already in 2016.

**Chart 1: USD/JPY has surged post-Trump**



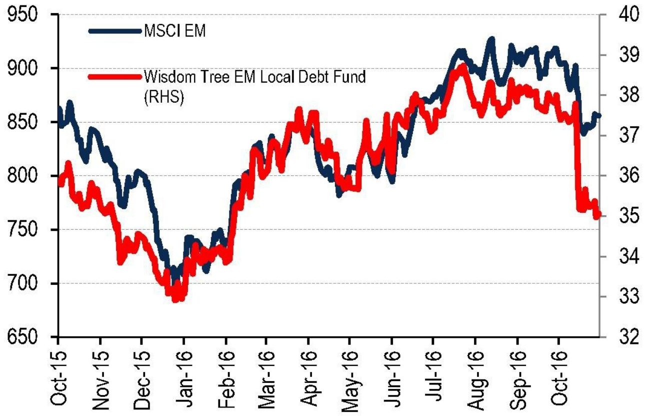
Source: Bloomberg

**Chart 2: As have bond yields**



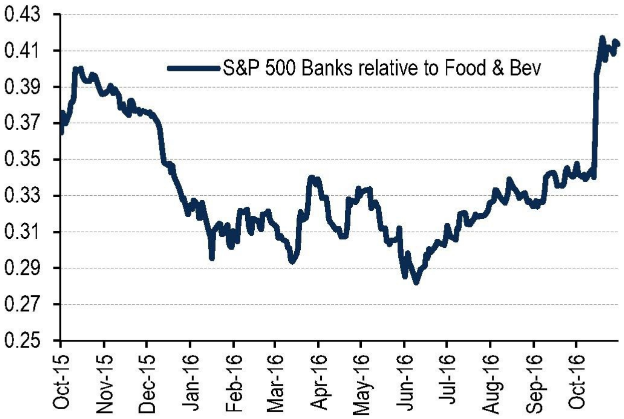
Source: Bloomberg

**Chart 3: EM debt and equity have been hit**



Source: Bloomberg

**Chart 4: While Banks versus Staples has gone ballistic**



Source: Bloomberg

The moves since Nov 8th have certainly been violent in certain asset classes. USD/JPY stands out, but the sell-off in US treasuries has been very marked, the hit to EM fixed income equally big, while in equity markets the outperformance of the Russell, the surge in the US banks and the sell-off in long duration equities has been remarkable.

Some of these moves, such as stronger USD, higher yields, banks vs staples were extensions of moves that had already begun. Others, such as Russell vs S&P, JPY, Nikkei, were the start of new moves where 8 Nov marked a key turning point.

The moves that had already started are now getting quite stretched with US 10Y yields up 5 standard deviations from the July low, with US Banks up by a similar amount vs Staples. The USD/JPY move though is more like a 2 SD move, with the NKY similar (if we exclude the 7% drop on US election day).

### Peak liquidity, deflation, inequality and globalisation – watch for Peak Trump

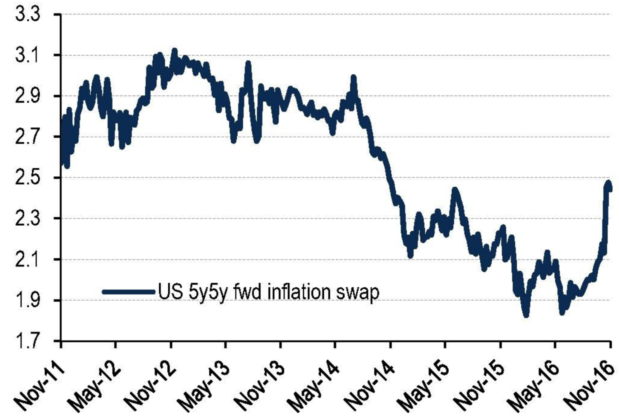
So what does a Trump presidency mean for the world? Michael Hartnett, our Chief Investment Strategist sums it up nicely with four of his seven peaks. **Peak liquidity** – the era of excess liquidity is over; **Peak inequality** – with fiscal stimulus to address inequality; **Peak globalisation**- free movement of trade, labour and capital ending, FX wars starting; and **Peak deflation** – the secular low point in bond yields now behind us. We would add a peak to that which investors need to bear in mind – **Peak Trump**. What we mean by that is at what point do the policy changes of the Trump presidency get fully discounted in markets. We have moved pretty quickly to do that but we suspect there is more to go, even if the quick returns have probably already been made.

If we think about these peak questions, the two that stand out to use as obvious and not really open to challenge are Peak liquidity and Peak deflation. The Fed left its peak liquidity position behind ages ago, the BOJ has moved to yield rather than liquidity targeting, the BOE may extend its current programme of QE one more time but then is probably done and even the ECB is talking about tapering, even if they are unlikely to do it in December. The Peak deflation theme follows on from this with the secular low in bond yields surely behind us if the central banks are stepping away from flooding the world with ever more liquidity.

### Peak liquidity/deflation means higher yields – inflation expectations adjusting

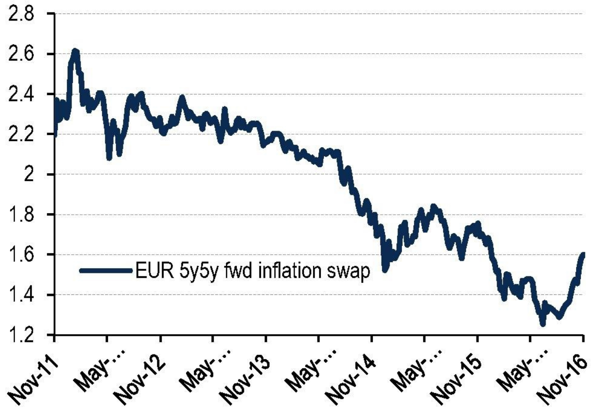
The question then is how much yields will likely rise from here. Much of course depends on how quickly inflation picks up. Markets have already moved to price in a significant pick-up in expected inflation as the two charts below show. To our mind breakeven inflation rates had been too low for too long, which is one reason we wanted to be defensive in bond markets. It would seem to us that inflation expectations are now up with events. US headline CPI at 2.5% is consistent with the Fed modestly overshooting its 2% core PCE target. Our economists think that the Fed may well aim a little high in the short term on inflation to ensure they have sufficient room to ease in the event of a downturn. However, it is unlikely that the Fed would tolerate a sustained overshoot of their inflation objective. That is particularly the case if the Fed under President Trump is made more hawkish as our economists think it probably will be (see Liquid Insight: Trump's stamp on the FOMC).

**Chart 5: US 5Y5Y forward inflation back towards 2.5%**



Source: Bloomberg

**Chart 6: Euro 5Y5Y forward inflation up to 1.6%**



Source: Bloomberg

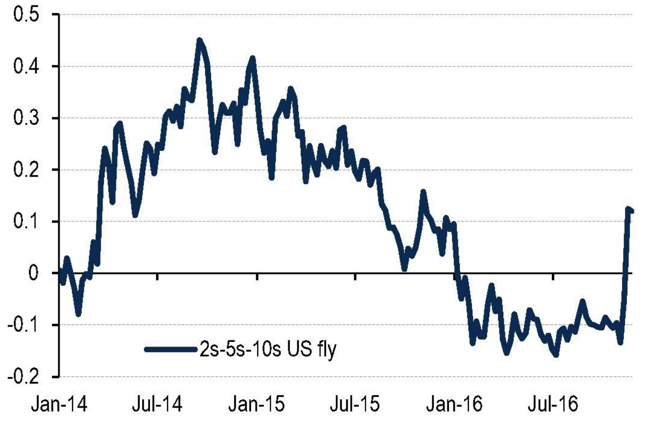
Equally, our economists in Europe are sceptical on the ECB's ability to get inflation to rise significantly from current levels. Optically there is scope for European breakevens to head higher if the ECB were to be successful but investors are likely to want to see some evidence of rising inflation first before they price that in. We will return to this below. For now we agree with our fixed income strategists that the rise in inflation expectations is probably sufficient and that any rise in yields from here has to be one of higher real yields.

They think such a rise as a tightening of monetary conditions which may be self-limiting in the short term, particularly as the fiscal boost in the US is likely to be back loaded in terms of 2017. If rates move too quickly and the USD follows before the fiscal stimulus kicks in they could actually dampen growth. Indeed, our US economists have shaved their near term growth forecasts already to reflect the current moves. They do not expect the fiscal stimulus to start to boost growth before the 3rd quarter.

## Fiscal + hawkish Trump Fed means we stay short 5Y US via 2-5-10 butterfly

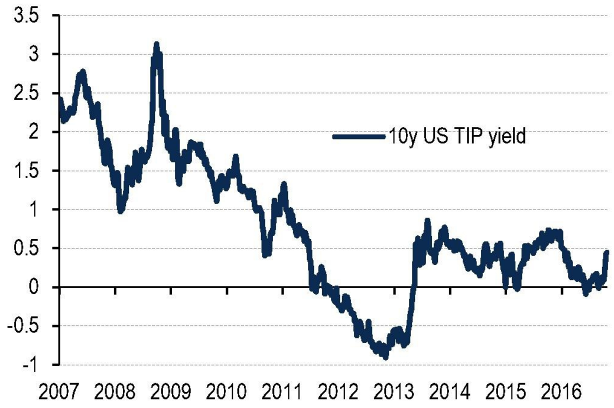
Our fixed income team estimated how much fair values of the different parts of the curve would have to move were the market to move into line with the dot plot. Updating those estimates for the move since their publication we find 2Y rates can move another 11bp, 5Y 39bp and 10Y 33bp. They argue that given we are past the inflection point for rates, with fiscal policy being eased and now with a more hawkish Fed under Trump likely, the dot plot should form the floor not the ceiling for rate expectations. All of this translates into a view that 10Y yields can push to 2.65% by the second half of 2017. Given their views on the curve we continue to run the 2-5-10 butterfly. It has moved from around -10bp to +10bp since the election, and our fixed income strategists have moved their target to +20bp.

Chart 7: 5Y yields to continue to underperform



Source: Bloomberg

Chart 8: Real rates likely to feel the pressure going forward



Source: Bloomberg

## Peak globalization/inequality means higher real rates – short 10Y US real rates

Our fixed income team make the point that globalization has been a driving force behind lower real rates as it has been good for EM growth and reserves. Those reserves then found their way back into the US holding real rates lower. They argue that as the global savings glut unwinds real rates have room to re-price. Peak inequality also means an unwind of globalization as politicians seek to protect workers from the depressing effect on wages coming from overseas. Donald Trump has already said he intends to charge China with being a currency manipulator. Whether he does or not and what action he takes to accompany it remains to be seen, but artificially low currencies generating high current account surpluses are unlikely to go down well with the new administration. That lends weight to the fixed income team's arguments.

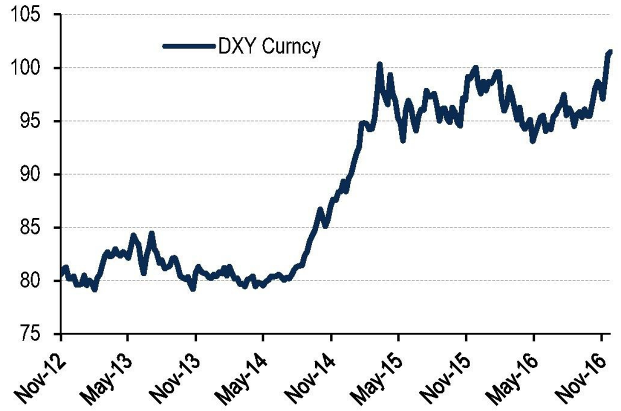
Peak inequality may also mean less migration across the world – think Trump's arguments on illegal immigration from Mexico and Theresa May's desire to limit migration into the UK post Brexit. Less migration likely means more upward pressure on wages, which is the inflation expectations side of the argument. But Michael Hartnett also thinks it means more action on fiscal policy. The UK government have implemented a £24bn infrastructure fund in the Autumn statement. Donald Trump wants to trigger up to $1tn of infrastructure spending in the US in addition to the tax cuts.

The fiscal boost should push real rates higher (at least in the short term). Some Fed members have acknowledged this suggesting that equilibrium interest rate might be moved higher by fiscal stimulus. The rates team also rightly says while they want to be bearish rates given the speed of the move so far it is also right not to be foolish. Given how much inflation expectations have moved they think there is better risk reward in real rates. They argue the 10Y real rate is the most vulnerable to further moves higher in rates. Although they have already risen from around zero in the summer to ~50bp now they think 10Y real rates can reach 1%. So we add that trade to our 2-5-10s position.

## Implications for other asset classes: Stronger USD, weaker EM?

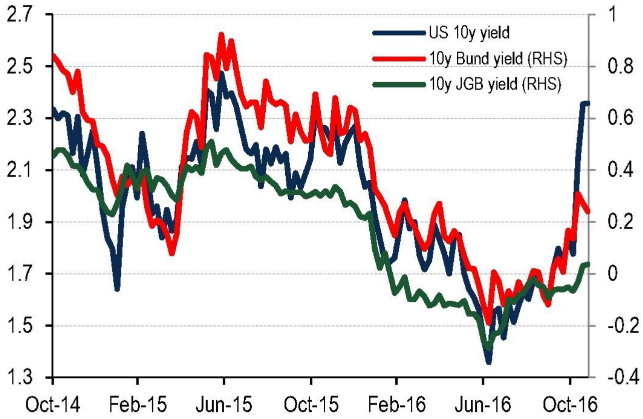
The forces impacting on markets from the Trump victory have not been confined to rates markets, although it is probably fair to say that most (although certainly not all) of the impact stems from the move in rates. Higher US rates have meant a stronger USD, an outperformance of short duration over long duration equities, a hit to EM debt and all forms of carry trades.

**Chart 9: USD breaks to new highs**



Source: Bloomberg

**Chart 10: As Treasury yields open big gaps with Europe and Japan**



Source: Bloomberg

The USD is a case in point, with the higher US rates creating a significant gap to equivalent Euro and JPY rates. With the ECB likely to extend QE by the full current amount (despite the debate over timing) and the BOJ committed to capping JGB yields at zero, a surge higher in the USD was the logical outcome. Given that the biggest gap in intentions was relative to Japan it is perhaps not surprising that the JPY has been the biggest victim, with the JPY falling some 10% against the USD since the election. The DXY has broken out of the top end of the trading range it has been in since early 2014.

The stronger USD is not just reliant on higher yields, but also other factors such as the likely repatriation of money into the US under a new proposal for US corporates to return funds at a concessionary tax rate, generally referred to as HIA2.

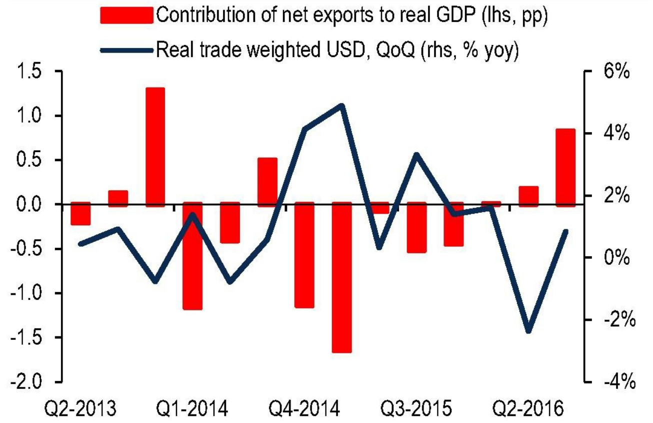
We had positioned long USD as well as short rates, not so much as an explicit play on a Trump victory but more against a more hawkish Fed in 2017. We were also of the view though that a Trump win would likely be positive for the USD and higher yields. Going back to our fixed income strategists' point that the dot plot should now perhaps be the base case for the markets that does imply higher yields which should continue to be dollar supportive. Like their bond yield forecasts though our strategists call for a modest further appreciation of the USD rather than a huge surge. They have the USD peaking at 1.02 vs the EUR, 120 against the JPY and 1.43 vs the CAD.

So the big violent move has likely happened even if we still see the USD strengthening further next year. Certainly our FX strategists are not calling for a surge in the USD similar to the one that happened in 2014/15.

### The reaction of the US economy to "Trumponomics" is key

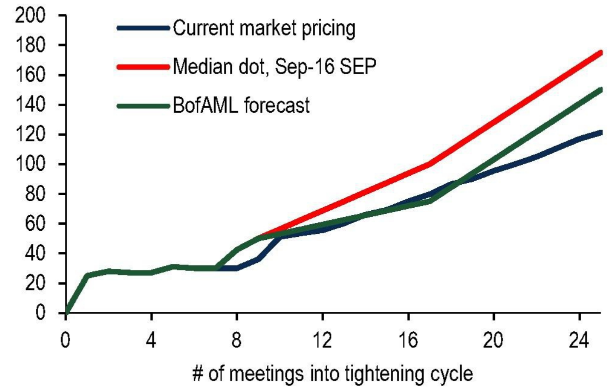
These two things are important for other asset classes. If we really thought 10Y Treasuries were heading to 3%, the Fed likely to tighten above the dot plot and the USD to surge another 10% in quick order, the impact on other asset classes would likely be more severe. That would undoubtedly exacerbate the trends we have seen out of EM and long duration equities. We also suspect it would make it much harder for commodities to perform. We see holding USD and short rates positions as necessary to hedge against such an outcome with limited downside risk if it does not happen.

**Chart 11: Dollar strength leads to immediate trade drag (inverse relationship)**



Source: Federal Reserve Board, Bureau of Economic Analysis

**Chart 12: Expected path of fed hiking cycle (bp)**



Source: BofA Merrill Lynch Global Research, Federal Reserve, Bloomberg

Nevertheless it is not our central scenario in part because there is a risk that much of a Trump surge could be bad for growth. As we noted above the fiscal stimulus is likely to be back loaded as far as 2017 is concerned. In the meantime the FX and Rates teams predict an 8-10% appreciation of the USD from pre-election levels and 10Y rates about 80bp higher. Our economists note that a 10% appreciation of the USD is estimated to slice around 0.5% off of US GDP growth over two years. Higher mortgage rates from higher bond yields would also likely dampen growth. As a result, they have actually lowered their forecast for US growth in the first half of next year to around 1.5% before seeing it rebound to around 2.3% in H2 and then 2.5% in 2018 as the fiscal stimulus feeds through.

Various Fed members, notably Bill Dudley of the NY Fed, have said this year that a stronger USD would have an impact on monetary policy. So to some extent we see USD strength as self-limiting as it would start to lower the profile of likely Fed tightening.

Our economists are also cautious as to the extent of the impact of the Trump fiscal plans. Assuming that there is a compromise between the Trump administration and Congress our economists think the likely scale of tax cuts is $2-3tn over 10 years, with $200-300bn of this in 2017. Given the low estimated multiplier from any proposed tax cuts and a Congress likely to limit the amount of an increase in government spending, they look for a modest 0.5% boost to growth.

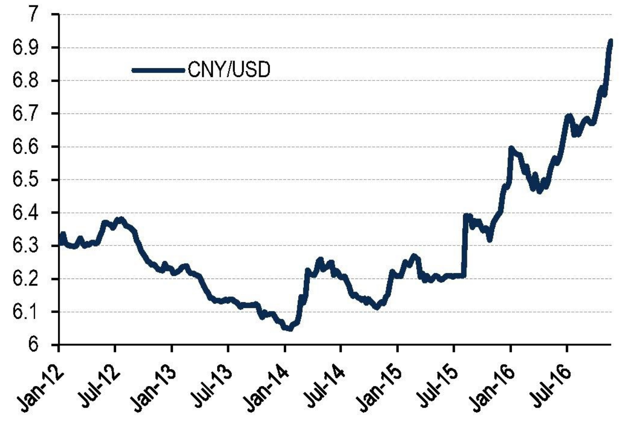
### Upside risk to growth and rates if Trump does more on fiscal, less on trade

If Congress passes more of the Trump stimulus plan, particularly on the infrastructure side, and there are no significant changes to trade or immigration policies then our US economists think growth could potentially hit 3% in 2017 and 3.5% in 2018. That would likely be accompanied by a faster pace of Fed hikes than they currently assume (which is two hikes between now and end 2017 followed by 3 in 2018).

### Trade policy and its impact vital

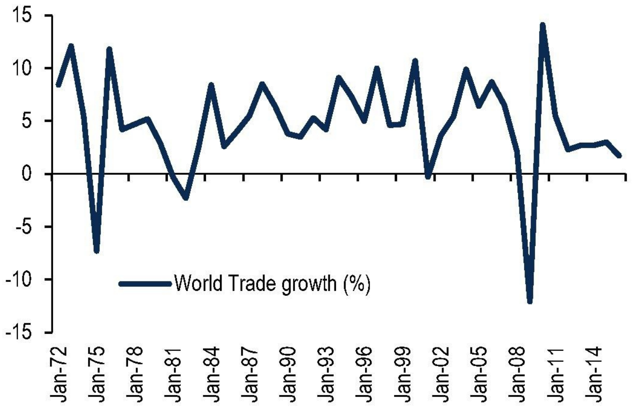
The other key factor of the new administration is going to be the direction on trade. President elect Trump has already said he will pull out of the TPP, TTIP looks likely to get the same treatment, while NAFTA is set to be renegotiated. Meantime Trump said he will label China a currency manipulator. This is the other side of the Peak Globalisation/Peak Inequality coin and none of it looks good for global trade. Combined with the stronger USD and higher rates, it is easy to understand the knee jerk reaction of investors to sell EM asset, particularly given the gains of earlier this year.

**Chart 13: China could be named a currency manipulator**



Source: Bloomberg

**Chart 14: But world trade has slowed – would Trump make it worse?**



Source: WTO, BofA Merrill Lynch Global Research

The question for investors is whether Trump the candidate or Trump the deal making businessman will eventually be the driver behind trade policy. It is not impossible to imagine the President-elect gaining some concessions from his hard line stance and then claiming victory. After all, since one of his aims is to get the US economy growing at 4% a year, a prosperous global economy to export into is probably preferable to one that is taking a hit from an aggressive US trade policy. That is the inclination of our EM strategists and economists, so they are expecting the reality to be softer than the rhetoric.

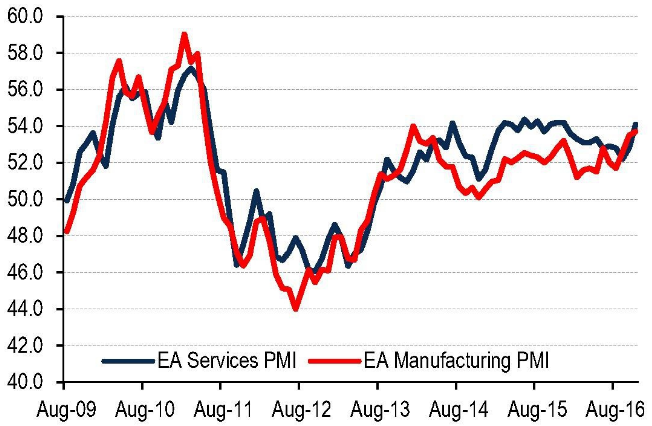
At this stage we have to acknowledge that it is little more than an educated guess. It makes us less certain of our long EM equity position than we were. Nevertheless, we had already switched it out of an MSCI position into an Asia ex Japan in part because of US election risks and our strategists are particularly upbeat about Asian markets. They think they are cheap, they are positive on China and they think growth and hence earnings will surprise on the upside.

## What about the rest of the world? Growth has been improving

Growth indicators have been improving around the world of late. Data since the US election would seem to support that with the PMIs in the Euro Area improving again and their equivalent in the US sustaining the gains seen last month. Our EM indicators remain robust and our China ACT indicator continues to indicate steady growth there too.

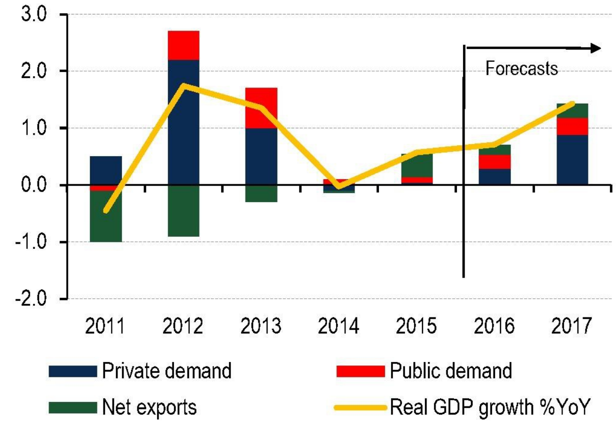
Our economists forecast 3.5% global GDP growth with EM growth around 4.7%. Our Euro Area growth numbers have been nudged back up towards 1 ½% with Brexit not proving to be as much of a drag as feared. We still expect the UK economy to see something of a slowdown in 2017 as the lagged effect of the fall in the pound hits consumer incomes. Perhaps our most optimistic view of the world, relative to consensus, comes from Japan where with fiscal policy turning more supportive (we put the package at 1.5% of GDP) we see growth at 1.4% in 2017.

**Chart 15: Eurozone PMI's point to solid growth**



Source: Markit

**Chart 16: Japanese growth expected to accelerate in 2017**

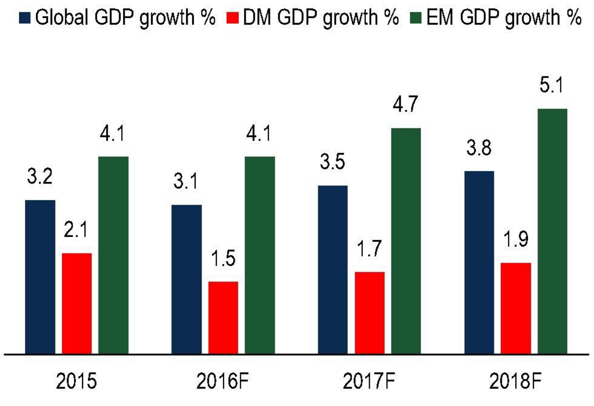


Source: BofA Merrill Lynch Global Research forecasts, CAO

It is a decent global growth picture and it is not impossible to imagine it being still better should the US surprise on the upside and the impact on trade from a Trump presidency prove to be modest.

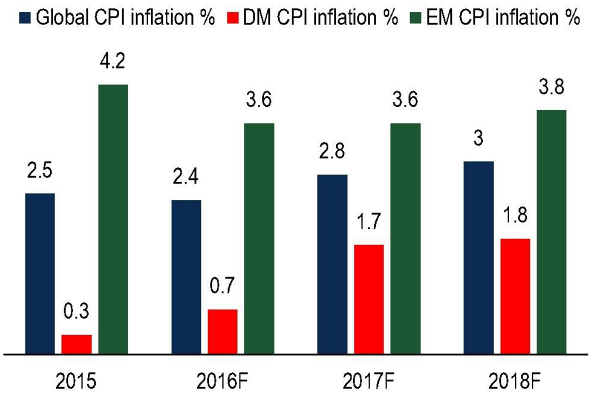
It certainly fits with the Peak Deflation theme since this stronger growth is expected to be accompanied by a pick-up in inflation. We have core PCE in the US reaching 1.9% next year in our core scenario. Our headline inflation numbers are higher because of the expected increase in the oil price from our commodity strategists. Indeed with oil expected to reach $60pb (OPEC permitting) headline CPI inflation in the US could push 3%. In the Euro Area we see headline inflation rising to 1.2%, albeit with core inflation only nudging modestly higher. UK inflation is expected to move markedly higher care of the lower pound, again with headline inflation pushing towards 3%. In Japan driven by our more optimistic view of the economy we project core CPI at 1%.

**Chart 17: BofAML sees GDP accelerating into 2018...**



Source: BofA Merrill Lynch Global Research

**Chart 18: ...with inflation picking up too**



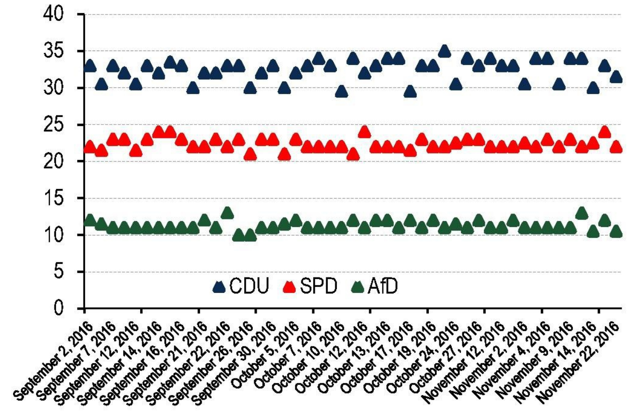
Source: BofA Merrill Lynch Global Research

## Politics – does populism strike again, this time in Europe?

Few would have predicted both Brexit and a Trump win in 2016. Both had something to do with the Peak Inequality and Peak Globalisation themes. Politicians on both sides of the Atlantic tapped into a deep disquiet, particularly amongst white male blue collar voters that they were not benefitting from this new globalised world. If opinion polls are to be believed (something which we have all learnt to question) then Italy may well end the year with another vote against the governing party - although that one is perhaps a little more complicated to dissect. We recently added a put spread on the eurostoxx to hedge against such a bad outcome here, which would be the case if it is perceived to be supportive of the 5 star movement or threatened the recapitalisation of the Italian banks (see Strategy Insights: Italy risks elevated).

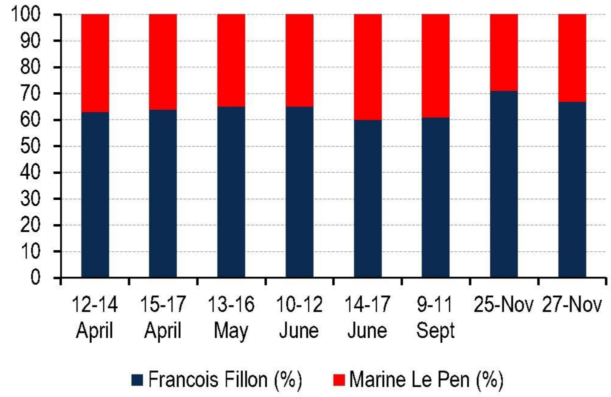
In 2017 the focus turns to core Europe, especially France and Germany. Because of the winner takes all system in France we find investors are more concerned with the situation there. Marine Le Pen and the Front National look likely to make it to the second round of voting (again according to polls) and until the vote comes in we suspect investors will be cautious about European markets. A Le Pen victory could likely bring the future of the EU and the Euro into question as she has talked about France withdrawing from both. That in turn has arguably the potential to be even more of an earthquake for the world's financial markets. Our central case is that centre right President is elected in France (with Francois Fillon now the official Republican candidate) and Merkel is returned at the head of a coalition government in Germany.

**Chart 19: German polls show a consistent lead for Merkel's CDU party**



Source: Allensbach (15-Sept, 13-Oct), Emnid (7-Sept, 14-Sept, 21-Sept, 28-Sept, 5-Oct, 12-Oct, 19-Oct, 26-Oct, 2-Nov, 9-Nov, 19-Nov), Forsa (2-Sept, 9-Sept, 16-Sept, 23-Sept, 30-Sept, 7-Oct, 14-Oct, 21-Oct, 28-Oct, 4-Nov), Forschungsgruppe Wahlen (22-Sept, 13-Oct, 27-Oct, 10-Nov), GMS (14-Sept, 12-Oct, 12-Nov), Infratest dimap (21-Sept, 5-Oct, 19-Oct, 2-Nov), INSA (5-Sept, 12-Sept, 19-Sept, 26-Sept, 3-Oct, 10-Oct, 17-Oct, 24-Oct, 2-Nov, 7-Nov, 14-Nov, 22-Nov), Ipsos (10-Oct)

**Chart 20: Fillon well ahead of Le Pen in polls showing a potential run-off**



Source: Ifop (12-14 Apr, 14-17 Jun), BVA (15-17 Apr, 13-16 Mar, 10-12 Jun, 9-11 Sept), Odoxa (25 Nov), Harris Interactive (27 Nov). Note: all 2016.

Were this to be the case then we think there may well be room for a significant relief rally in European assets. Until then we think it likely investors will demand a higher risk premium.

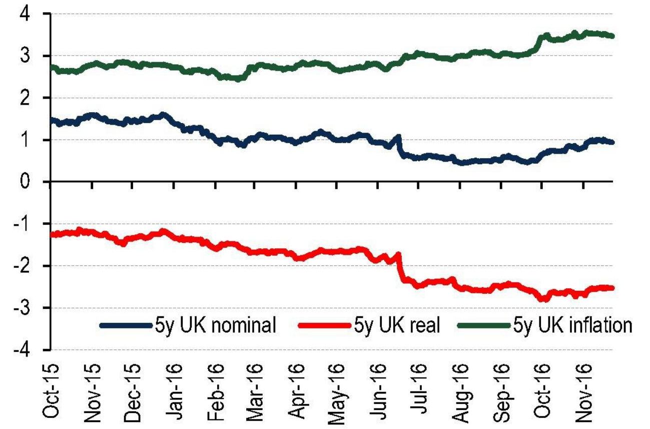
Brexit was the big political topic for Europe going into 2016. Going forward we see it as an ongoing issue but mostly for the UK. The political uncertainty is likely to be extended, even after Article 50 is triggered as any significant negotiations probably need to await the outcome of the French and German elections. We expect the UK economy to struggle as the lagged effect of the fall in the currency hurts consumers and while there may be contrarian trades available in the GBP during 2017, our strategists think it goes lower first on the triggering of Article 50.

# X Asset Trade Ideas

## Rates – short 5Y US nominal and 10Y real rates, short 5Y UK real rates

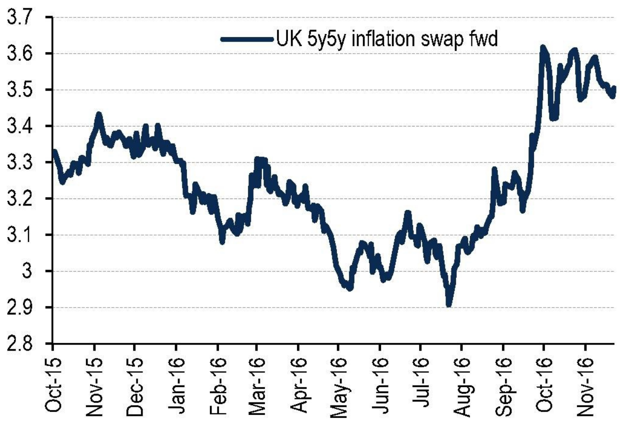
As discussed above on the rates side we keep our 2-5-10's butterfly but add a 10Y short real rates trade, to reflect the view of our fixed strategists that if yields are to go higher then real rates will need to move. So we will not repeat the analysis here.

**Chart 21: Markets do not expect the BOE to react...**



Source: Bloomberg

**Chart 22: ...to a sustained overshoot of its inflation target**



Source: Bloomberg

The other fixed income trade we continue to like is short 5Y UK real rates. The market continues to discount the Bank of England consistently overshooting its inflation target without a response on monetary policy. Yet Governor Carney and other members of the BOE's MPC have said that while they are willing to look through a short term inflation shock they would not tolerate a sustained overshoot.

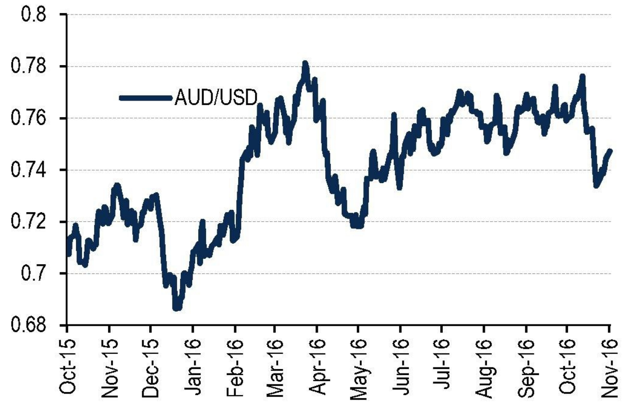
The market therefore is pricing something which suggests that the BOE will sacrifice its credibility on the inflation side to (presumably) support growth. We would rather take the side of the Bank in this situation. It is worth bearing in mind too that those on the right of the Conservative party who have been critical of Governor Carney and the BOE have tended to want higher not lower short rates. When the PM and Chancellor have to replace the Governor at the end of 2018 it is unlikely that they are going to choose someone more dovish.

## FX – long USD, short GBP, AUD, CNH

We have been long USD since August believing the risk reward to be skewed in favour of a stronger currency because we saw more room for the Fed to tighten than other central banks. Given the fiscal stimulus expected from the new administration the risks on that tightening profile have been skewed to the upside. We think the FX and Fixed Income strategists are right to think of the dot plot as a floor now for markets. With yields still needing to move higher to get there that should put further upward pressure on the USD. The scope for gains though depends on the currency. The Euro is already just 3.5% from the target for next year whereas both the GBP and the JPY have about 7-8% to fall to our FX team's targets. The team also continue to like short AUD positions as they think this also captures risk off in the event of concerns over China.

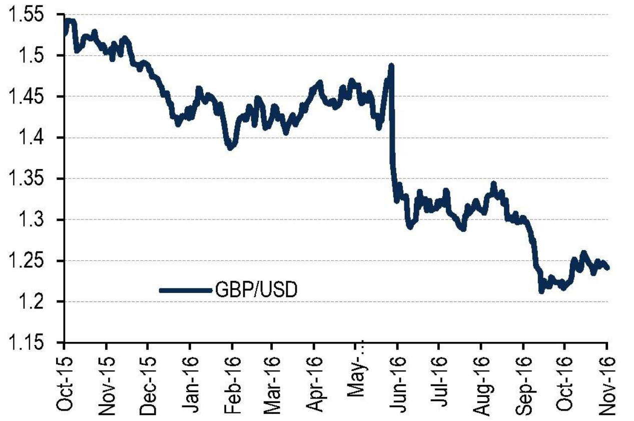
Whilst the short GBP has only worked modestly since the US election, we continue to think Brexit uncertainties will weigh on the currency into 2017 and our FX strategists target 1.15 in the aftermath of the article 50 decision.

**Chart 23: AUD fell post US elections...**



Source: Bloomberg

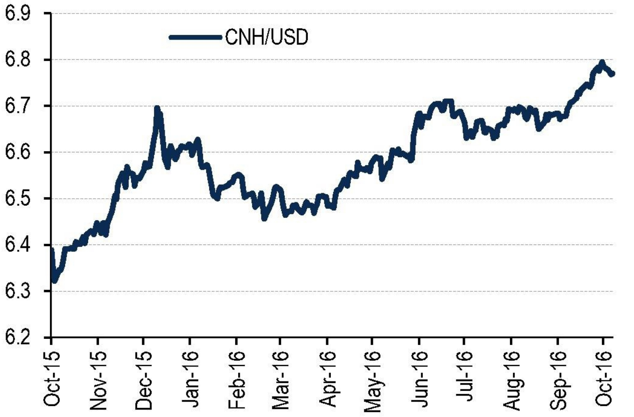
**Chart 24: ...GBP has held up so far but article 50 looms in Q1**



Source: Bloomberg

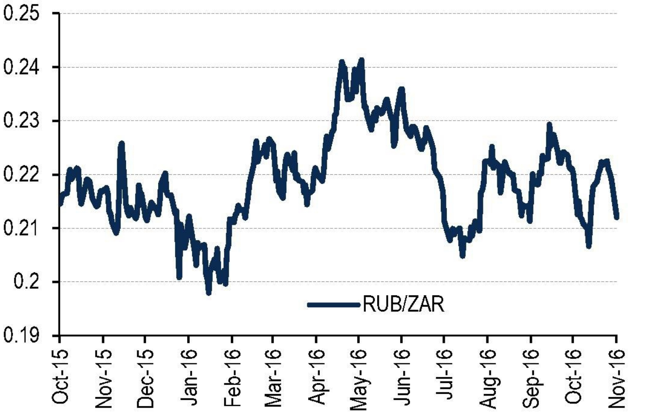
Today we add a CNH put (expressed as a USD/CNH call at 7.6 strike) partly because it fits with our positive USD call but also because it is a potential hedge against the trade rhetoric of the new administration descending into something more meaningful. Given the stated intent to declare the Chinese as currency manipulators and the concern that our currency strategists already have about the amount of reserves the Chinese hold, it is not impossible to imagine a much weaker CNY/CNH should the Chinese authorities allow a free float. We see this as a sensible hedge against our long EM equity position.

**Chart 25: CNH continues to weaken, risk of more on trade tensions?**



Source: Bloomberg

**Chart 26: RUB/ZAR choppy on oil and SA politics**



Source: Bloomberg

We have two other standalone currency trades, short EUR/SEK and long RUB/ZAR. The former has dropped as the EUR has weakened against the USD. We continue to think that the Swedish economy is more robust than the Eurozone and that the Riksbank will sooner or later have to adjust monetary policy accordingly. We see a lot more room for this pair to move in 2017, particularly if there are political concerns ahead of the French presidential elections as these will likely weigh on the EUR.

RUB/ZAR has been quite erratic since we re-established the trade, reflecting both volatility in the oil price and developments in South African politics. The latest no confidence vote against President Zuma underlines how tricky South African politics are at the moment. Concerns will remain on the economic progress of the country until the political situation becomes clearer. In the meantime we expect a higher risk premium to be associated with the currency.

## Equities: Add long Nikkei to EM Asia

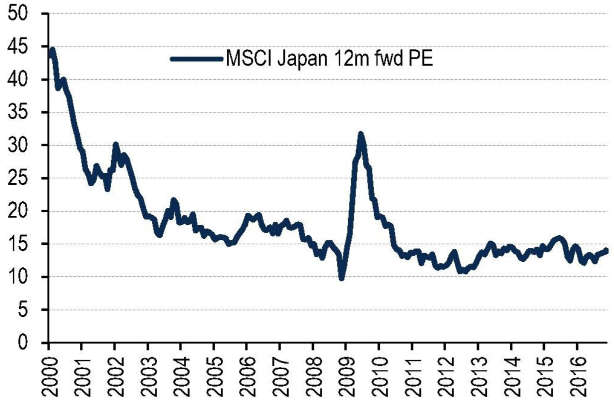
Global equity markets have gone in very different directions post the US election. EM have fared worst, Europe little changed, S&P at new all-time highs, the Russell and Nikkei on a tear higher. This is not how we were positioned so we need to ask the question of whether and what we need to change.

**Table 2: MSCI EM Asia at a 2PE point discount to other equity markets**

| | MSCI EM Asia 12m fwd PE | MSCI Japan 12m fwd PE | MSCI Europe 12m fwd PE | MSCI US 12m fwd PE |
|---|---|---|---|---|
| Latest | 11.9 | 14.1 | 14.3 | 17.0 |
| Min | 7.6 | 9.7 | 7.4 | 10.4 |
| Max | 18.5 | 44.5 | 23.9 | 25.2 |
| Av | 11.5 | 18.2 | 14.0 | 15.9 |
| SD | 1.8 | 6.8 | 3.4 | 3.2 |
| Z-score | 0.2 | -0.6 | 0.1 | 0.3 |
| %ile | 68% | 31% | 60% | 73% |

Source: BofA Merrill Lynch Global Research, MSCI, IBES

**Chart 27: Japan relatively cheap at 14.1x fwd earnings**



Source: BofA Merrill Lynch Global Research, MSCI, IBES

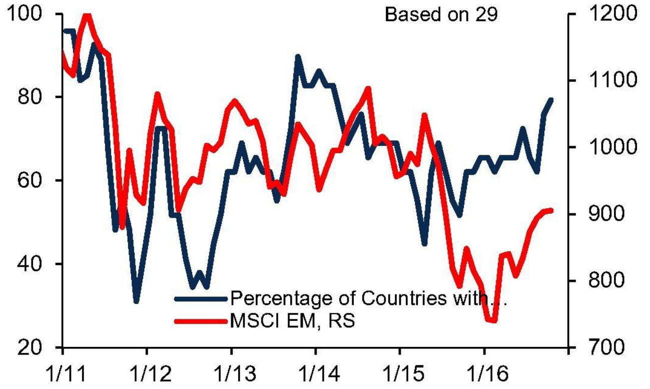
If we stand back from the noise and just look at the valuations, the US is the most expensive, MSCI Asia ex the cheapest in absolute terms. Our strategists see decent earnings growth likely to come through in EM Asia, and while there is upside to US earnings estimates from potential corporate tax cuts at least part of it is priced in. Savita Subrahamian has a target for the US of 2300 in her year ahead Euphoria or fiscal fizzle?, an upside of a less than 5%. Our European strategists have an upside of around 6%. So that leaves EM Asia and Japan (given our 20k target) as the stand outs according to our equity strategists. Indeed, the PE of Japan is towards the bottom end of the range since 2000.

### Sticking with EM Asia

One of our concerns on EM was a more hawkish Fed and therefore a stronger USD. So we regarded our positions in those asset classes as something of a hedge to our EM positions. As we explained above we are keeping that stance as on our central scenario there is more to go and on a risk scenario where bond markets overshoot the USD is likely to follow.

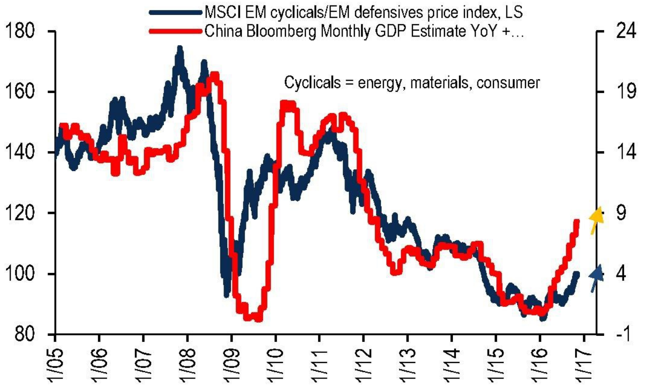
In the equity world, if our fixed income and FX forecasts are right, then we do not see them as being an impediment to our EM Asia position working again. Our EM strategists remain upbeat and Ajay Kapur actually upgraded his call to buy from a tactical pause post the election (A Call to Action: Time to BUY Asia/EMs). They think the right focus is one on growth rather than the USD and we continue to be upbeat on the prospects for EM growth, particularly in Asia. Ajay in particular makes the point that Chinese nominal GDP growth has been accelerating and that tends to be very good for Asian equity markets. Nigel Tupper's global wave has continued to improve and he argues that remains consistent with strong performance from Asia ex Japan equities.

**Chart 28: The world economy is improving – broad-based recovery – good for Asia/EMs**



Source: BofA Merrill Lynch Global Research, Haver, Bloomberg

**Chart 29: EM cyclicals outperform as China's NOMINAL GDP recovers. More to go.**



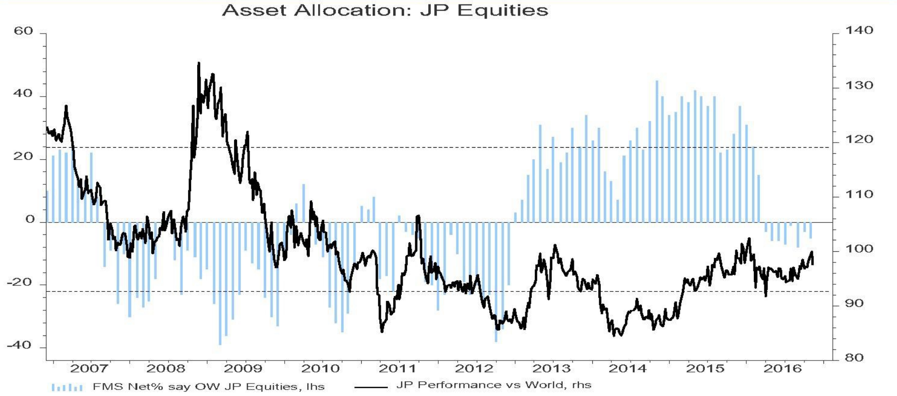
Source: BofA Merrill Lynch Global Research, Bloomberg. Assumed GDP estimate for October-16 to be similar to that for September-16.

The question then is whether the strong USD or trade tensions from the new Trump administration can outweigh the more positive macro backdrop. We are inclined to back the view of our strategists and think that it will, so we are sticking with our long EM Asia position. We are doing so with hedges via a long USD and a CNH put.

## Long Nikkei: target 20,000

We had previously paired our long EM position with a long US oil equity position, but with our US strategists downgrading the sector ahead of OPEC we removed it earlier this week. We were therefore looking for another pro-growth trade to run alongside our EM position. Long Japanese equities seemed the logical place to look. While we acknowledge we have missed the lows and that today's entry point may not be ideal, we suspect investors are not particularly long Japan yet since it was still showing as modestly underweight in the last Fund Manager Survey.

**Chart 30: Net % AA say they are overweight Japanese equities**

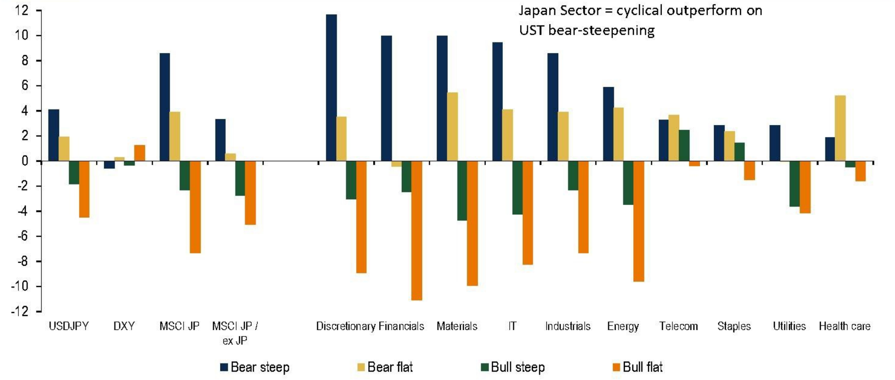


Source: BofA Merrill Lynch Global Fund Manager Survey

Our Japanese equity and FX strategist Shusuke Yamada has been arguing for a while that we would see both a weaker JPY and a rebound in Japanese equities. While arguably the JPY had turned beforehand, the Trump victory turbo charged the move. As the chart shows below Japanese equities do well historically during a period of bear steepening of the US yield curve. Our economists are also more upbeat on Japan thinking the weaker USD, the new policy stance of the BOJ and the fiscal stimulus will push growth and inflation higher next year.

The combination of these factors suggest Japanese equities have further to run. We also see the position as being complementary to our EM position since whereas a stronger USD is a drag on EM performance, it is beneficial for the NKY position.

**Chart 31: Japan equities have outperformed during US bear-steepening led by cyclicals, banks and insurance**



Source: BofA Merrill Lynch Global Research, Bloomberg.

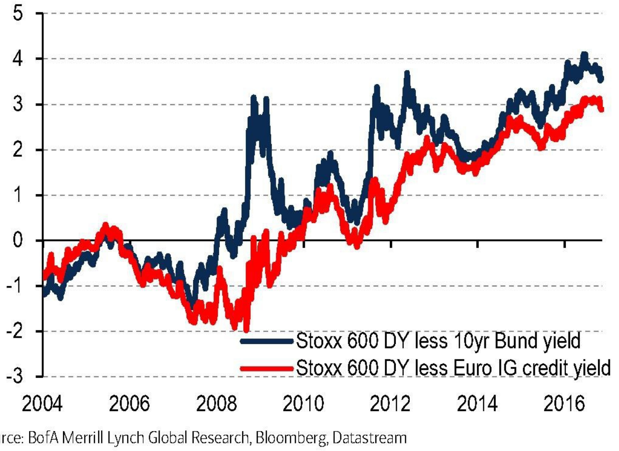
Curve movements based on 2yr move and 2s10s move (Bloomberg US Treasury yield index), so includes twist movements, but even if we exclude these implications do not materially change.

Bear steepening (2yr + 16bps, 2s10s +33bps) = 11 quarters, bear flattening (2yr +26bps, 2s10s -20bps) = 10 quarters, bull steepening (2yr -48bps, 2s10s +28bps) = 10 quarters, bull flattening (2yr -27bps, 2s10s -30bps) = 12 quarters

## Long Europe equities via yield stocks & index dividends

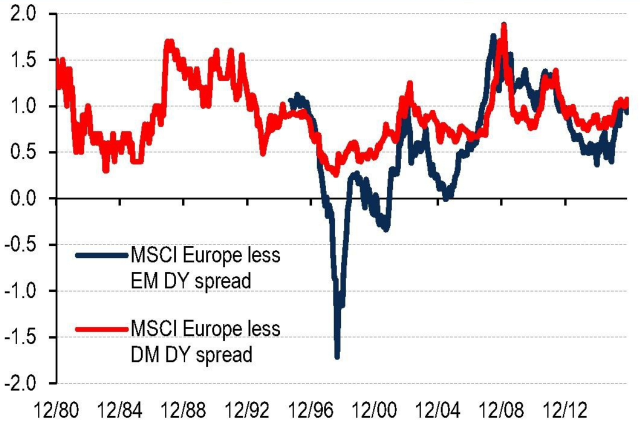
We continue to run two yield related trades in European equities. First, we remain long a broad selection of high yielding European equities. The dividend yield on offer in European equities is one of the asset class's key attractions. Europe offers a higher dividend yield than the other regions, with a 1.1% yield pick-up versus the DM average and 0.9% against EM equities. Those also look attractive relative to history: Europe's yield spread to DM ranks at the 87th percentile of the 20-year range. Europe's DY also looks attractive relative to sovereign and corporate bonds despite the recent sell off in fixed income markets: the yield pick-up relative to investment grade corporates is still 289bp. Given the concerns over European politics we prefer yield based strategies in Europe to those looking for capital appreciation at least in the short term.

**Chart 32: Equity DYs remain attractive relative to credit & sov bond yields**



Source: BofA Merrill Lynch Global Research, Bloomberg, Datastream

**Chart 33: Europe offers a yield premium vs global equities too**



Source: BofA Merrill Lynch Global Research, MSCI, Datastream

## European Yield Screen

The rising rates backdrop has left yield not quite as scarce as it has been, but we continue to think investors should own yield where they can get it at decent value, such as in European equities. Last month we recommended investors rotate out of lower risk defensive dividend stocks to take advantage of the improving cyclical backdrop and rising bond yields. That meant our November screen included a high proportion of Financials. This somewhat remains the case but we note the addition of several industrial companies in our latest screen. As a reminder, to qualify the stock must be SXXP listed stocks with at least €2bn market cap, 4% DY, 1.2x DPS cover, 0% DPS 2YR CAGR and qualifying stocks must be on a Buy rating from our fundamental analysts. The yield on the basket is 5% with an average DPS CAGR of 7% and 1.8x covered.

**Table 3: European Yield Screen – December 2016**

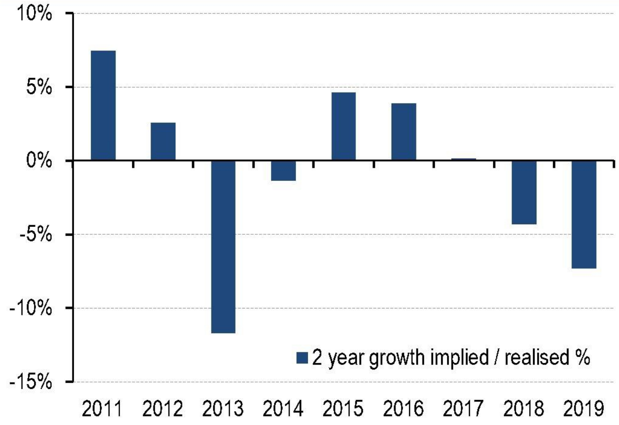
| Sedol | BofAML ticker | Company name | Sector | Divi Yield (>4%) | DPS 2Y CAGR | Div'd Cover |
|---|---|---|---|---|---|---|
| 426330 | DNBHF | DNB ASA | Banks | 4.2 | 23.9 | 2.0 |
| B545MG | XERSF | SWISS RE AG | Insurance | 5.4 | 5.2 | 2.1 |
| 457481 | MDIBF | MEDIOBANCA SPA | Banks | 4.9 | 8.0 | 2.4 |
| B1LB9P | SZCRF | SCOR SE | Insurance | 5.3 | 4.3 | 1.9 |
| BZ5739 | ING | ING GROEP N.V. | Banks | 5.3 | 4.6 | 1.7 |
| 538003 | NRDEF | NORDEA BANK AB | Banks | 6.6 | 2.1 | 1.3 |
| BDVZYZ | ROYMF | ROYAL MAIL PLC | Industrial Goods & Services | 5.0 | 4.2 | 1.8 |
| 458882 | DNSKF | DANSKE BANK A/S | Banks | 4.4 | 5.5 | 2.0 |
| 596651 | SCGLF | SOCIETE GENERALE | Banks | 5.6 | 0.6 | 2.0 |
| 021623 | AIVAF | AVIVA | Insurance | 5.1 | 9.9 | 1.8 |
| B23K0M | CTAGF | CAPITA PLC | Industrial Goods & Services | 5.7 | 2.5 | 2.1 |
| 522603 | SAXPF | SAMPO PLC | Insurance | 5.4 | 4.6 | 1.2 |
| 481334 | SVKEF | SKAND ENSKILDA BKN | Banks | 5.8 | 3.7 | 1.4 |
| B17BBQ | IVTJF | INVESTEC | Financial Services | 4.4 | 10.0 | 1.9 |
| 528983 | EBKOF | ERSTE GROUP BK AG | Banks | 3.6 | 12.5 | 3.1 |
| 766716 | ATASF | ATLANTIA SPA | Industrial Goods & Services | 4.9 | 11.2 | 1.3 |
| B83VD9 | MNGPF | MAN GROUP PLC | Financial Services | 5.8 | 15.1 | 1.2 |
| B5ZQ9D | EVKIF | EVONIK INDUSTRIES | Chemicals | 4.4 | 2.9 | 1.7 |
| B01FLG | GFSZF | G4S | Industrial Goods & Services | 3.9 | 5.6 | 1.6 |
| BGLP8L | IMIAF | IMI | Industrial Goods & Services | 4.0 | 4.0 | 1.5 |

Source: BofA Merrill Lynch Global Research, Factset. The European Quality Yield Screen identified as a screen above is intended to be an indicative metric only and may not be used for reference purposes or as a measure of performance for any financial instrument or contract, or otherwise relied upon by third parties for any other purpose, without the prior written consent of BofA Merrill Lynch Global Research. This screen was not created to act as a benchmark.

## Long SX5E 2018 Index dividend futures

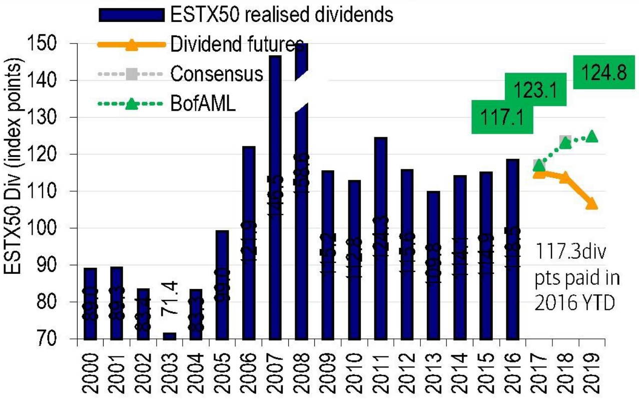
With our second dividend related trade, we remain long SX5E 2018 index dividend futures (DEDZ8), a trade where we continue to see value even with the future price trading close to the high for the year. The 2018 contract implies a 4% decline in dividends paid from the 2016 level. In the absence of a recession, we think that is too pessimistic – 2013 was the last year to see a material 2-year decline in dividends (in the wake of the sovereign crisis and recession). The 2018 contract also still trades at a discount to the level implied by our stock analysts' DPS forecasts. Our derivative strategists using BofAML forecasts for 2018 estimate 8% upside from current prices. Although the upside is now more limited the risk around this trade is also much lower now. The pull to par effect will become the dominant driver over the coming months and the full year results should provide clarity on where the 2018 contract will settle.

**Chart 34: SX5E dividends: 2-yr implied growth in 2018 still looks cautious**



Source: BofA Merrill Lynch Global Research, Bloomberg

**Chart 35: BofAML's SX5E Dec18 div forecast implies 8% upside**



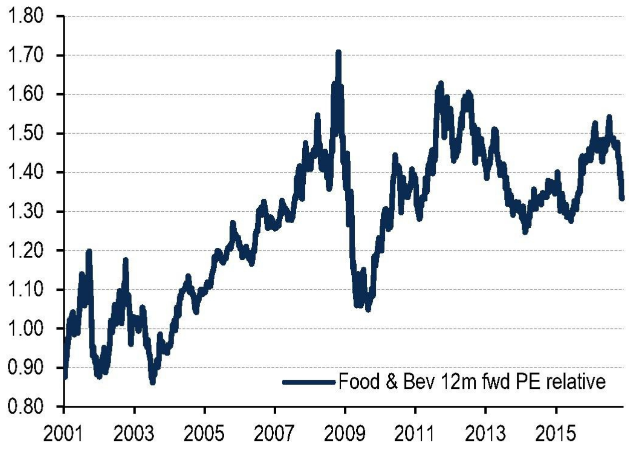
Source: BofA Merrill Lynch Global Research, Bloomberg

## European equities: switch to outright long Healthcare

We switch our European sector pair trade preferring Healthcare over Food & Beverage into an outright long in Healthcare. Both sectors have suffered versus the market from the rotation out of defensives and bond proxies. That has reduced the valuation of the Food & Beverage sector to less extreme levels. Meanwhile Healthcare looks very attractively valued and we see compelling risk reward in the sector on an outright basis at current levels.

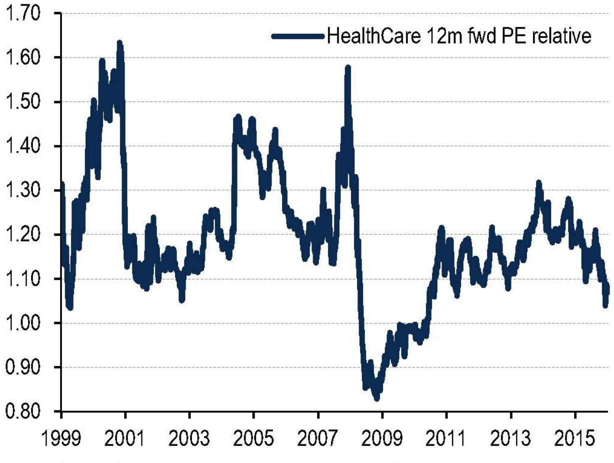
The fundamental bull case for Health rests on the strong pipeline of new products for the big cap pharma universe. Our sector analysts forecast EU Pharma to deliver a 2018-21E EPS CAGR of 11%, up from mid-single digit levels in recent years. Historically that would justify a PE re-rating and a multiple for the pharma sub-sector nearer 17-18x than the current 13x 2018 PE.

**Chart 36: Extreme overvaluation in Food & Bev has moderated**



Source: BofA Merrill Lynch Global Research, Datastream, IBES, Bloomberg

**Chart 37: Healthcare PE – back near market multiple and patent cliff lows**



Source: BofA Merrill Lynch Global Research, Datastream, IBES, Bloomberg

We believe the Republican clean sweep in the US elections represents a positive catalyst as it significantly decreases the potential for legislative initiatives to aggressively control drug pricing in the US. The catalyst for the sector to re-rate will come progressively from newsflow around new products. The next 12 months should see progress on this front with several of the European large caps expected to announce key data on important drugs in 2017.

Healthcare's forward PE is now down to just a 7% premium relative to the market and nearing the valuation lows recorded in 2010-12 when the patent cliff was at its worst and pipelines were very weak. Today pipelines are twice the size they were in 2011 and innovation is the key to growth in the sector - pricing power remains strong in drug categories with differentiated products.

## Credit: Long Spreads in Europe and US

### Europe: Long Xover short Main

Rate cuts are off the table it seems, as central banks are starting to recognise the side effects of NIRP. This reinforces our view that a continuation of CSPP, entails that the reach for yield will extend to those assets that have not seen it yet; long Crossover vs iTraxx Main.

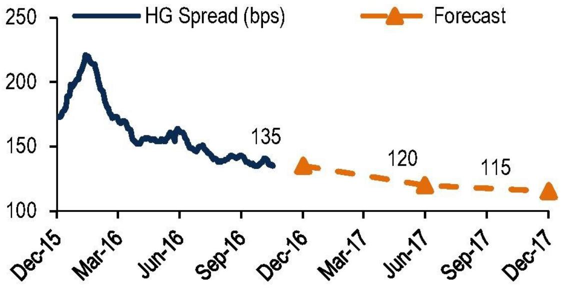
The beta outperformance has already started in the cash market. We look at synthetics and we see that Crossover has not mirrored that performance. Even though XO has outperformed recently, it still has further to go to close the gap vs cash market's performance.

Ioannis Angelakis thinks that rising political risks in the following twelve months are more likely to weigh on iTraxx Main performance than Crossover, as Main has higher concentration vs XO on names domiciled in countries with elections.

### Buy 30y US IG Industrial spreads

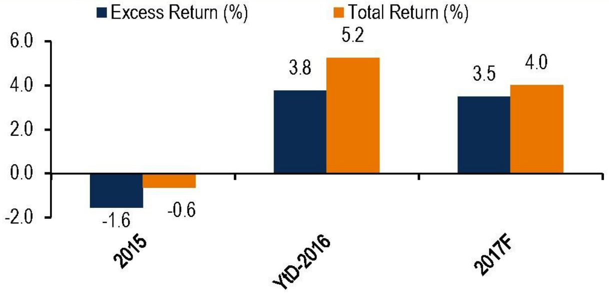
US high-grade is the market our colleagues in Credit Strategy are most bullish into 2017. Hans Mikkelsen thinks IG corporate spread maturity curves super-flatten as global credit investors do the twist - i.e. sell shorter maturities and buy the long end. Foreign inflows are now concentrated in the back-end, as credit spreads have rallied while the cost of currency hedging increased. That means that only the back end of the steep US corporate spread curve offers enough spread to overcome the high cost of currency hedging. The flip side is that the front end of the US credit spread curve is very unattractive and we expect domestic and foreign investors to accelerate their selling of shorter maturity US corporate bonds. Overall, Hans expects the 30yr corporate bond part of the market to generate 8%-9% total returns next year.

**Chart 38: High grade spread forecast**



Source: BofA Merrill Lynch Global Research

**Chart 39: High grade returns forecast**

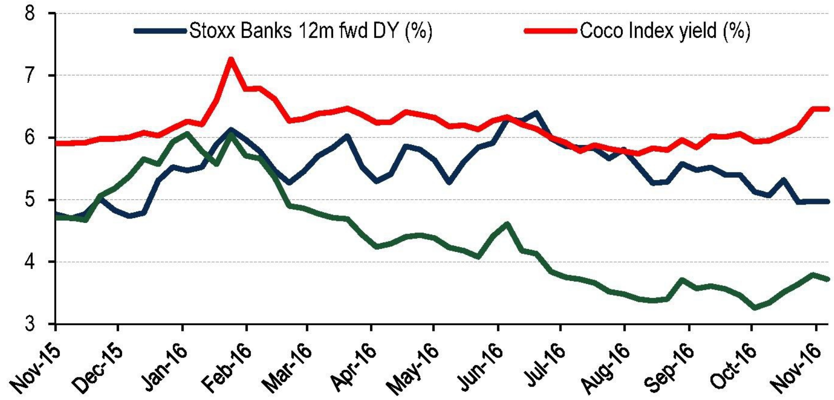


Source: BofA Merrill Lynch Global Research

### Long AT1s basket

Contingent capital continues to offer a compelling premium to European HY and lower volatility than bank equity. The asset class also received a boost last week when the European Commission submitted a proposal for AT1 coupons to be prioritized over common dividends and bonuses if the bank breaches its combined buffer. This placates one of the main concerns investors have, i.e. that banks could decide to skip a coupon payment but maintain their dividend. The confirmation of the role of AT1s in Pillar 2 capital is another example of regulators providing clarity on how contingent capital fits within the overall capital structure. The main short term risk for the trade is the fate of the Italian banks recap, so we will be watching closely to see how that develops.

**Chart 40: European AT1s offer a compelling yield for total return investors**

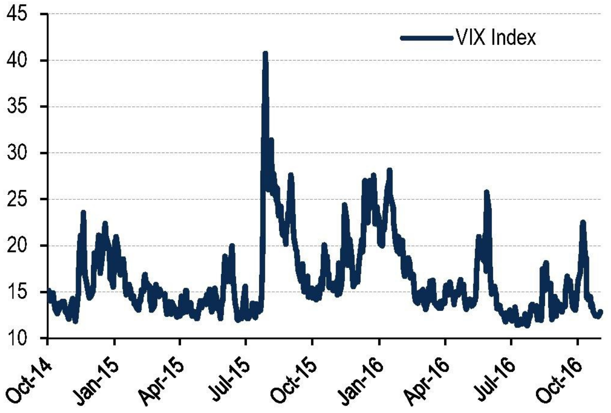


Source: BofA Merrill Lynch Global Research, Bloomberg, Datastream, IBES

## Volatility: Sticking with Relative trades

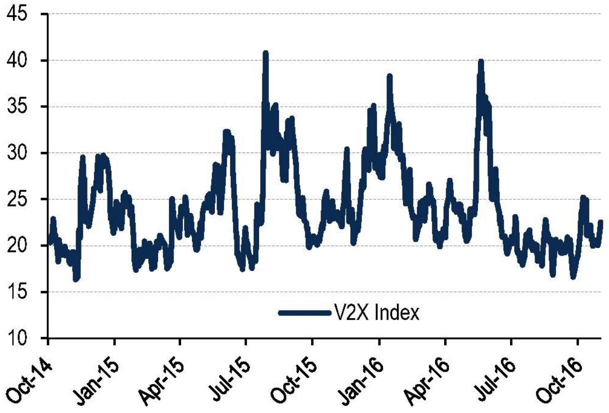
While 2016 started off with a bang volatility wise it has ended with a whimper. Neither Brexit nor the US presidential election proved to be anything more than a blip. Realised vol in the S&P 500 over the last 100 days is just 9.5%. That compares to 13.6% for the Eurostoxx 15.1% for the Russell and 21.8% for the NKY.

**Chart 41: Neither the Trump election…**



Source: Bloomberg

**Chart 42: …nor Brexit led to a sustained period of higher volatility**



Source: Bloomberg

That is why we prefer relative variance trades. They tend to carry flat to positive but have convexity to the downside. We are happy to continue to run these trades into 2017 and then use shorter term instruments to hedge specific events.

We did this around Brexit and have recently bought a 3000-2850 Eurostoxx put spread to hedge our European exposure around the Italian referendum. While a No vote is expected we are not sure what the aftermath will look like and there is considerable uncertainty over the bank recapitalization of the banks afterwards.

We also have a calendar put spread in eurostoxx which tends to pay off best around the 2500-2600 levels so that remains something that we will look to keep for now given downside risks in Europe over the first half of next year.

One trade we are taking off today is our Kospi forward vol position. We had held that as a hedge against a China hard landing. Our derivative strategists no longer like it and we have no opted for a currency hedge for our China risk, as discussed above.

## Risks to trades

### Equity trades

- The risks to long divi basket & Pharma trades are a steepening of rates curves and better than expected growth outside of Europe causing investors to rotate out of bond proxies. Plus our analysts' expectations of improved earnings from the healthcare pipeline not coming through.

- The risks to trade dividend future trade is lower than expected profits for major European sectors, e.g. Banks, Oils, causing a correction in dividend expectations.

- The risk to EM Asia ex-Japan is from a stronger USD and faster than expected US rates hiking cycle. Trade tensions with the new US administration an additional risk now.

- Risk to long Nikkei trade is a reversal of JPY weakness or a change in policy by the BOJ.

### Fixed income trades

- The risks to the US rates trades are a dovish Fed responding to a tightening of monetary conditions before the fiscal boost kicks in. Disappointment on the fiscal stimulus also a risk. The risk to the UK inflation trade is that the BoE doesn't respond to expected rising inflation by raising rates faster.

- The risks to the Industrial spreads trade is a deterioration of US industrial growth and step away from credit purchasing by ECB/ BoE.

- The risks the AT1 trade are the ECB pulling out of the credit markets causing a correction in the riskier portion of the market and bank profitability deteriorating raising concerns about default.

- The risks to our XOVER trade are Eurozone growth disappointing and a risk-off event in markets causing a flight to quality amongst credit investors.

### Volatility trades

- Our equity vol trades are hedges, the risks are that they expire worthless due to the lack of a financial event in China and persistent low vol spread in equity markets supported by higher growth.

### FX trades

- The main risk to our FX trades is of a more dovish than expected Fed, a more hawkish than expected BOE, improved politics in South Africa/weaker oil price and a more dovish Riksbank.

# Appendix 1: Methodology

This publication is aimed at multi-asset institutional investors who tend to have a longer term time horizon for their investments. As such, we will be looking to come up with ideas that will have a minimum six month horizon and ideally longer than a year. The individual trade ideas will be sourced from our strategists across BofA Merrill Lynch Global Research.

This publication is not meant to be an agglomeration of all the trade ideas published by BofAML Global Research strategists, but instead represents those that fit with our longer term themes (as opposed to shorter term tactical trades). In addition, there may be several different trade ideas published by BofAML Global Research strategists across different asset classes that seek to leverage off of the same theme. In most cases we will seek merely to take the trades that have the best risk adjusted return. By risk adjusted we mean the risk undertaken in a trade vs the likely return on that trade. In considering that we will look at the underlying volatility in the individual asset class. This will be combined with our own view of what the likely downside is in an adverse scenario vs the payoff in the expected scenario and our own assessment of the likelihoods of such scenarios.

Once selected it is assumed that the trade would likely be retained for a minimum of six months (as per the selection rationale). Should any analyst change their view on the trade and cease to recommend it, then it will be immediately removed from our list[1]. Equally should our target be met for a trade and the relevant strategist feels it has run its course then it will also be removed (see footnote). Otherwise we will review our trades on a monthly basis in this publication. If we feel a new trade idea has a better risk adjusted return than an existing one in the same asset class then we would replace it.

The objective of the trades is that they would be suitable for a typical objective of the multi-asset fund managers, which is typically framed in terms of a Libor+ benchmark (this can be anything from Libor +300bp to Libor +700bp). That return is also coupled with a target volatility, for example half MSCI ACWI volatility. The volatility target will, of course, be a function of the expected return, but there is a general focus on producing lower volatility returns. Our set of trades should not be regarded as a portfolio but a collection of ideas to implement in a multi-asset portfolio.

# Appendix 2 – Recommended COCO bonds

**Table 4: COCO basket**

| ISIN | Bond | Issuing entity | Price | Mid YtM |
|---|---|---|---|---|
| XS1055037177 | ACAFP 6.5% EUR Perp-21 | CREDIT AGRICOLE SA | 100.5 | 5.4 |
| XS1002801758 | BACR 8% EUR Perp-20 | BARCLAYS PLC | 100.9 | 7.1 |
| XS1033661866 | BBVASM 7% EUR Perp-19 | BANCO BILBAO VIZCAYA ARG | 91.1 | 7.1 |
| XS1073143932 | NYKRE 4% EUR 2036-21 | NYKREDIT REALKREDIT AS | 102.4 | 2.7 |
| XS0972523947 | CS 5.75% EUR 2025-20 | CREDIT SUISSE | 107.6 | 3.6 |
| DE000DB7XHP3 | DB 6% EUR Perp-22 | DEUTSCHE BANK AG | 78.3 | 6.7 |
| XS1043545059 | LLOYDS 6.375% EUR Perp-20 | LLOYDS BANKING GROUP PLC | 97.5 | 5.7 |
| XS1171914515 | RABOBK 5.5% EUR Perp-20 | COOPERATIEVE RABOBANK UA | 98.5 | 5.5 |
| XS0867620725 | SOCGEN 6.75% EUR Perp-21 | SOCIETE GENERALE | 98.8 | 5.9 |
| XS1107890847 | UCGIM 6.75% EUR Perp-21 | UNICREDIT SPA | 84.5 | 7.7 |

Source: BofA Merrill Lynch Global Research *As of 28/11/2016 close

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[1] Under these circumstances, we will publish a note immediately.

# Appendix 3 – Indicative pricing/ levels

**Table 5: Latest indicative pricing/ levels for cross asset trades**

| Asset | Trade idea | Indicative price / level |
|---|---|---|
| Equities | Long European Quality Yield Screen (yield) | 5% |
| | **Long SXDP Index** | **681.6** |
| | **Long Nikkei** | **18307** |
| | Long European index dividend futures | 113.4 |
| | Long MSCI Asia ex-Japan | 525.7 |
| Equity vol | Long RTY short SPX 2y variance swap | 3.7** |
| | 3000-2850 SX5E put spread Dec 16 expiry | 1.20% |
| | Long NKY short SPX Dec 18 variance swap | 6vols |
| | Long SX5E short SPX Dec 18 variance spread | 6vols |
| | Eurostoxx 2y/3y put calendar | 1.99 |
| FX | Short EUR/SEK | 9.762 |
| | **Long USD/CNH call** | **0.56%USD** |
| | Short GBP/USD | 1.250 |
| | Long USD/AUD | 1.342 |
| | Long RUB/ZAR | 0.213 |
| Fixed Income | 2s-5s-10s fly (bp) | 11 |
| | **Short US 10y real rates (bp)** | **50** |
| | Paying 5y GBP real rate swap (bp) | -254 |
| Credit | Buy 30y US IG Industrial spreads (bp) | 187 |
| | Buy basket of Euro AT1s | 5.80% |
| | Long Xover short Main (ratio) | 4.22x |

Source: BofA Merrill Lynch Global Research, Bloomberg. Note: *all levels and prices as of 29/11/2016 at ~3pm or most recent local market close. **This is a theoretical level which may differ from actual tradable prices. ***This level is obtained by bootstrapping At-the-money forward volatility levels, does not represent a tradable instrument. The tradable strike of an FVA will likely differ considerably.

# Appendix 4 – Closed trades

**Table 6: Closed trades**

| Asset | Trade idea | Strategist | Open date | Closed date |
|---|---|---|---|---|
| Equities | Long Nikkei | Kenji Abe | 22/01/2016 | 01/04/2016 |
| | Long MSCI EM 1x 1x call ratio | Ajay Kapur | 01/03/2016 | 18/04/2016 |
| | Long MSCI EM 1x 1x call ratio | Ajay Kapur | 01/03/2016 | 18/04/2016 |
| | **Long US Energy** | **Savita Subramanian** | **07/09/0216** | **28/11/2016** |
| | Long MSCI EM | Ajay Kapur | 19/04/2016 | 30/09/2016 |
| | **Long SXDP Index vs Short SX3P Index** | **Ronan Carr** | **22/01/2016** | **28/11/2016** |
| Equity vol | Long June V2X call spread collar | Abhinandan Deb | 01/04/2016 | 18/04/2016 |
| | **Long Kospi fwd vol 6M/18M** | **William Chan** | **22/01/2016** | **28/11/2016** |
| | Short June V2X put | Abhinandan Deb | 01/04/2016 | Expired |
| | Long (30-35) V2X Jul call spreads | Abhinandan Deb | 18/06/2016 | Expired |
| | Long 2050-1950 S&P 500 Jul put spread | Abhinandan Deb | 18/06/2016 | Expired |
| FX | Long NOK/USD | Kamal Sharma | 01/03/2016 | 04/05/2016 |
| | Long RUB/ZAR | David Hauner | 22/01/2016 | 17/05/2016 |
| | Short EUR/SEK | Kamal Sharma | 22/01/2016 | 08/07/2016 |
| | Long JPY/KRW | Adarsh Sinha | 22/01/2016 | 31/03/2016 |
| | Long USD/CAD | Ian Gordon | 28/07/2016 | 07/07/2016 |
| | Short EUR/JPY | Athanasios Vamvakidis | 21/01/2016 | 30/09/2016 |
| | Short EUR/USD | Athanasios Vamvakidis | 08/07/2016 | 04/11/2016 |
| Fixed Income | Short EUR 5Y5Y inflation breakevens | Ralf Preusser | 22/01/2016 | 23/01/2016 |
| | Buy 30y real rates (bp) | Ralf Preusser | 22/01/2016 | 24/05/2016 |
| | Receive EUR pay US 5y5y fwd (bp) | Ralf Preusser | 22/01/2016 | 27/05/2016 |
| | Sell 6m 2s-5s-10s OTM receiver fly | Shyam R. Rajan | 07/09/2016 | 08/09/2016 |
| | US +15y IG credit (total return) | Hans Mikkelsen | 22/01/2016 | 04/05/2016 |
| | US +15y IG credit (Govt OAS) | Hans Mikkelsen | 04/05/2016 | 28/07/2016 |
| | Paying 2y3y GBP real rate swap | Mark Capleton | 02/09/2016 | 12/10/2016 |
| | 3y 2s-10s US flattener | Shyam R. Rajan | 27/05/2016 | 10/10/2016 |

Source: BofA Merrill Lynch Global Research. **Trades closed in this report (or recently) in bold.**

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We, James Barty, Abhinandan Deb, Barnaby Martin, Benjamin Bowler, Claudio Piron, David Hauner, CFA, Hans Mikkelsen, Ian Gordon, Ioannis Angelakis, Kamal Sharma, Mark Capleton, Ritesh Samadhiya, CFA, Shusuke Yamada, CFA and Shyam S.Rajan, hereby certify that the views each of us has expressed in this research report accurately reflect each of our respective personal views about the subject securities and issuers. We also certify that no part of our respective compensation was, is, or will be, directly or indirectly, related to the specific recommendations or view expressed in this research report.

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| Investment rating | Total return expectation (within 12-month period of date of initial rating) | Ratings dispersion guidelines for coverage cluster* |
|---|---|---|
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| Neutral | ≥ 0% | ≤ 30% |
| Underperform | N/A | ≥ 20% |

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European Equity Strategy

# 2017 year ahead – Refining the reflation rotation

01 December 2016

Equity Strategy
Europe

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## Key takeaways

- 2017 - Reflation, Reversal, Rotation, Relief or Revolt. EPS to turn +ve but politics to remain a valuation overhang in H1.
- Defensive vs Cyclical rotation at extreme levels. More balanced approach needed but look for another leg to cyclical trades.
- O/w Media as quality cyclical and Oil. Stay cautious on UK domestic (Retail, Travel). Health, Utilities over Food & Bev.

## 2017 – A year of cross currents, nimble investors required

Recovery (positive but moderate in our view) and Rotation go hand in hand - we think that the pace of the rotation has to moderate. ECB reversal on QE is a risk and tapering because the ability or willingness to do QE fades would likely cause a setback. Investors will demand a premium for political risk until we get clarity on populist Revolt or policy Relief in France and elsewhere. Like 2016 investors will need to trade the ranges.

## High single digit upside - politics likely to weigh near term

A valuation overhang remains in Europe vs other DM. We see a return to positive EPS growth (+7%) in Europe for the first time since 2014, driven by higher global GDP growth Resources recovery, capex discipline and FX. +7% growth implies less downgrades than usual (10% is the average). Base case upside in high single digits (c9% total return) but politics may mean market highs are more likely achieved in H2.

## Modestly higher yields and higher equities compatible

Equities can continue to perform with rising rates – the key is that inflation breakevens are not falling. However, a more aggressive bond sell-off taking Treasury yields to 3% or higher would undermine EM, the growth outlook, peripheral spreads and risky assets.

## Reflation rotation stretched – refining our approach

Rotation has been extreme (>6SD move in Def vs Cyclicals). Argues for a moderation in returns and a more balanced approach to sector allocation. Look for another leg to cyclical trades in the New Year. Sector valuations have also moved a long way already.

## Cautious on domestic UK exposure – Brexit still to bite

The full impact of sterling weakness on the UK consumer environment is yet to be felt and Brexit negotiations are likely to drive further uncertainty and FX volatility. Structural issues add to our concerns in Retail and Travel & Leisure (both underweight).

## O/w Oil, Health, Utilities, Media; u/w Food & Beverage

An OPEC cut and higher oil would make Oil's high DY sustainable. Healthcare is too cheap vs an improving sector growth outlook and 2017 is a key year for pipeline news. Food & Beverage still seems the least attractive Defensive on valuation, positioning. We move overweight Media, a quality cyclical that has lagged and seen valuations de-rate.

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# Refining the reflation rotation

**2017 is likely to have a number of cross currents as themes. Recovery** (we look a modest acceleration in both growth and inflation) and **Rotation** go hand in hand. On the basis of our central forecasts for growth, inflation and rates and given the moves in the market already we think that the pace of the rotation has to moderate. (In-line with that we recently downgraded of banks and miners).

**Reversal** refers to the ECB. Our economists are not yet convinced that the ECB will start to unwind loose policy 2017 but the probability is increasing. An ECB that tapers because growth and inflation are improving would be supportive for markets, notably banks. But tapering because the ability or willingness to do QE fades would likely cause a setback. **Relief or Revolt** relates to European politics. Will Europe follow the route to populism (revolt from the voters) or will we find relief for the markets by the end of 2017 from a Fillon/Merkel duo being in charge of the Euro area's two largest economies. We think investors will demand a higher risk premium until the French Elections in May 2017

Valuation are reasonable at 14x PE but Europe is cheap on a relative basis and the **valuation overhang remains evident in the region's equity risk premium**, which implies 11% upside to get back to 5-year average levels. We see a **return to positive EPS growth (+7%)** in Europe for the first time since 2014, as 3.5% global GDP growth should deliver positive earnings growth (supported by Resources recovery, capex discipline and FX. +7% growth implies less downgrades than usual (10% is the average).

**Bond yields and equities – stable/higher inflation breakevens are key.** Equities can continue to perform in an environment of higher rates – the key is that inflation breakevens are not falling. However, a more aggressive bond sell-off taking Treasury yields to 3% or higher would undermine EM, the growth outlook and risky assets.

The **rotation out of bond proxies and Defensives into Financials and Cyclicals has moved to extreme levels**: relative performance of Financials / Cyclicals versus Defensives rose over 6SD in 10-14 months. Technical metrics are at historical extremes, arguing for a moderation in relative returns and a more balanced approach to sector allocation is justified right now. Look for another leg to cyclical trades in the New Year.

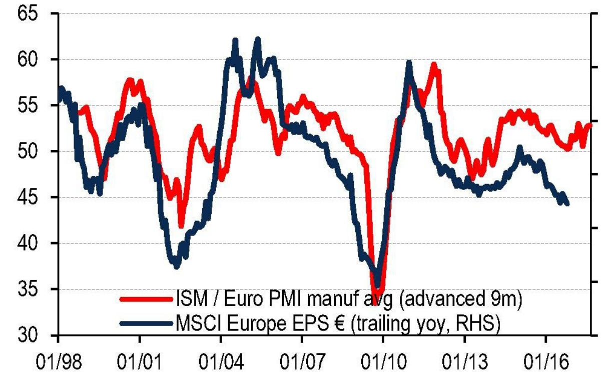
**Sectors have also moved a long way already from a valuation perspective**. Financials are now trading around median relative valuation levels. Healthcare PE relative is at the bottom of the historical range and Utilities relative PE is also close to the prior low hit in 2013. Food & Beverage still commands a large premium and PE-relative is 6-10% above the 2010 / 2014 lows.

**We remain cautious on domestic UK exposure.** The full impact of sterling weakness on the UK consumer environment is yet to be felt and Brexit negotiations are likely to drive further uncertainty and FX volatility in our view. Structural issues add to our concerns in Retail and Travel & Leisure (both underweight).

**Overweight Oil, Healthcare, Utilities, Media; underweight Food & Beverage.** If OPEC cuts production and oil recovers up to the high $50s per barrel, Oil sector EPS and cash flows can recover significantly and make the highest DY in market (6%) look sustainable. Healthcare we believe is too cheap relative to an improving sector growth outlook. 2017 will be an important year for newsflow on key pipeline drugs. Evidence of success can drive a re-rating independent of macro. Despite the recent sell-off, among defensives and bond proxies Food & Beverage still seems the least attractive. Valuations are among the most expensive in the market and overweight positioning has not corrected materially yet. We move overweight Media, a wuality cyclical that has lagged badly and seen valuations de-rate.

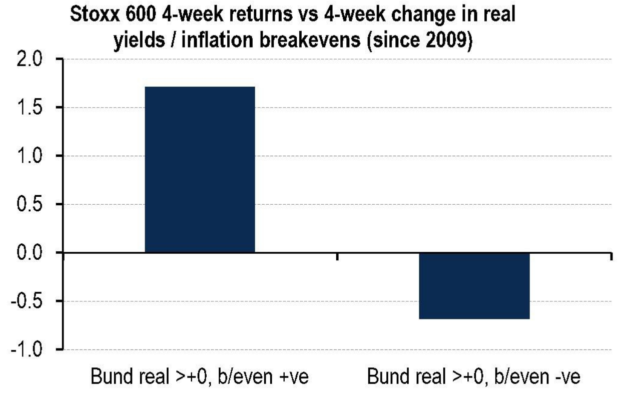
# Key charts

**Chart 1: Synchronised rise in leading indicators globally augurs well for earnings recovery – especially if PMIs kick on to or above mid-50s**



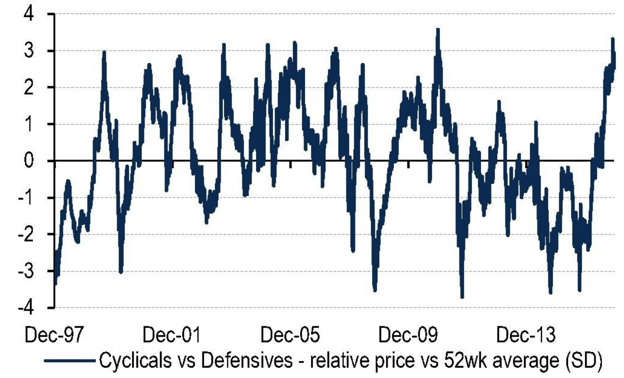
Source: BofA Merrill Lynch Global Research, Datastream, IBES

**Chart 2: Modestly higher yields and higher equities compatible – Rising inflation breakevens the key for equities**



Source: BofA Merrill Lynch Global Research, Bloomberg

**Chart 3: Cyclicals vs Defensives trade now looks very stretched**



Source: BofA Merrill Lynch Global Research, Bloomberg

**Chart 4: Likewise Financials vs Defensives: -2.5SD to +2.5SD post-Brexit**

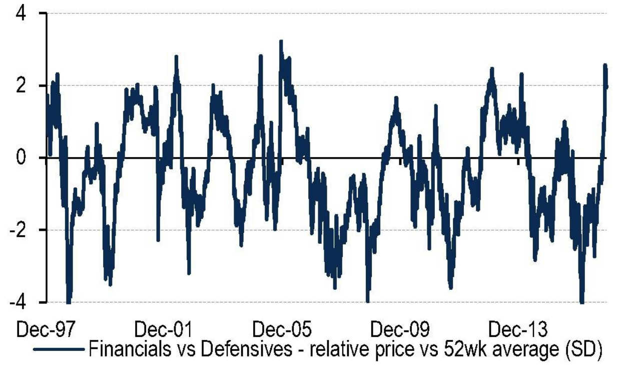


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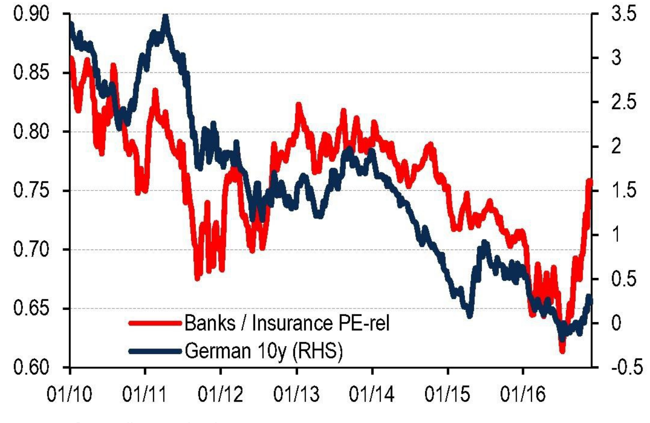
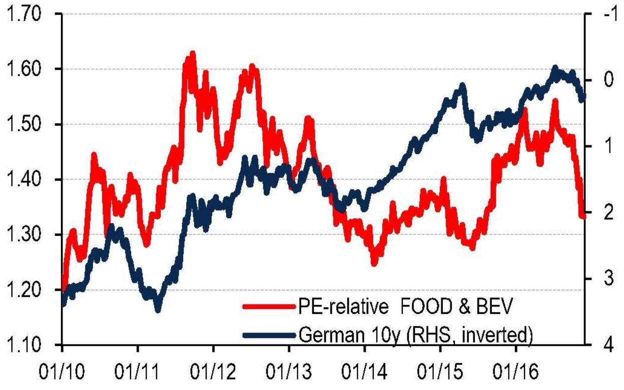
**Chart 5: Financials valuations have recovered significantly relative to the move in bond yields – relative PE back around average levels**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

**Chart 6: Rapid relative de-rating for Staples – relative PE for Food & Beverage still 6-10% above 2010 / 2014 levels**

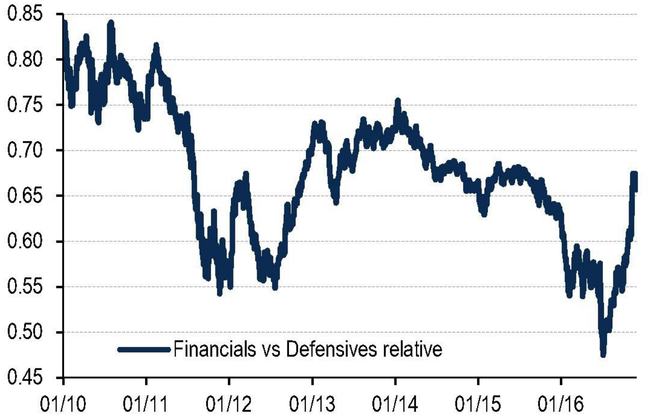


Source: BofA Merrill Lynch Global Research, Datastream, IBES

## Lessons from 2016

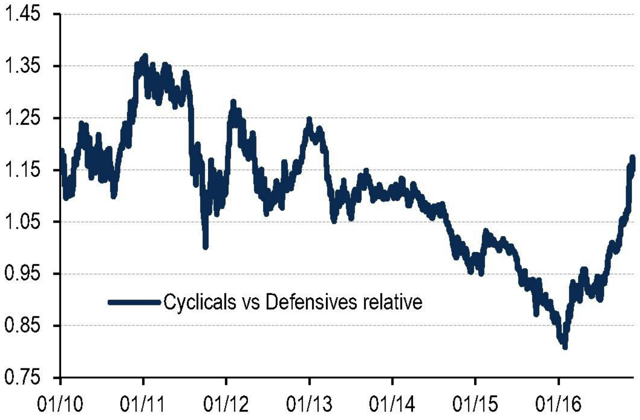
The old joke is that Year Aheads are frequently out of date by the end of year they are written in. There is a real danger of that this year given the speed which things have moved since Brexit and more recently the US election. The two charts below show that Financials and Cyclicals have clawed back around 2/3 of their underperformance vs Defensives. Of course it depends how you frame the question since we have included Utilities and Telecoms in the defensive basket. But when we downgraded Banks 10 days or so ago they had outperformed Food and Beverage by ~50% since the lows of early July. Whichever way you cut it some of these moves have been extreme.

**Chart 7: The moves since Brexit in both Financials...**



Source: Bloomberg

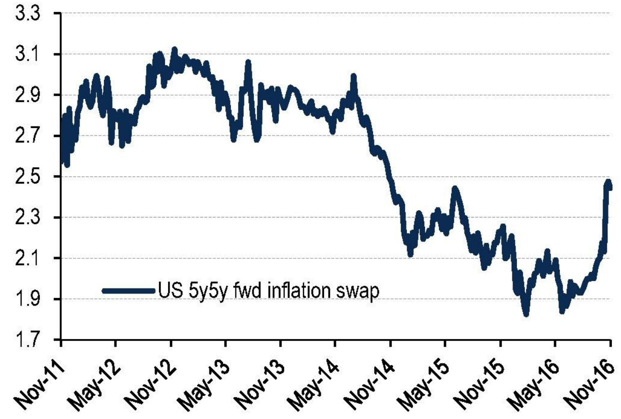
**Chart 8: ...and Cyclicals relative to Defensives has been dramatic**



Source: Bloomberg

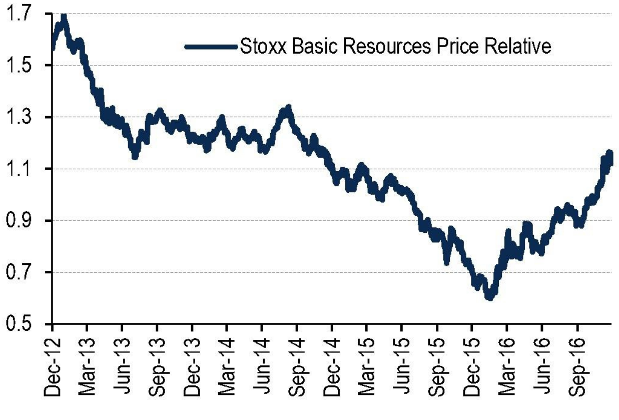
Moreover, in 2016 we doubt that even if investors had known the results of key events that they would necessarily have got the reaction in markets right. As we joked in our Cross Asset year ahead you needed not so much a crystal ball as a time machine to have got things completely right this year. Aside from Brexit and Donald Trump winning the US election it is easy to forget that in February we were worrying about a US recession and deflation. US 5Y5Y forward breakeven inflation rates actually troughed at 1.8% at that point. Four months later we were worrying about the deflationary impact of Brexit. Now we are thinking about the reflation under a Trump Presidency.

**Chart 9: US 5Y5Y forward inflation troughed in February**



Source: Bloomberg

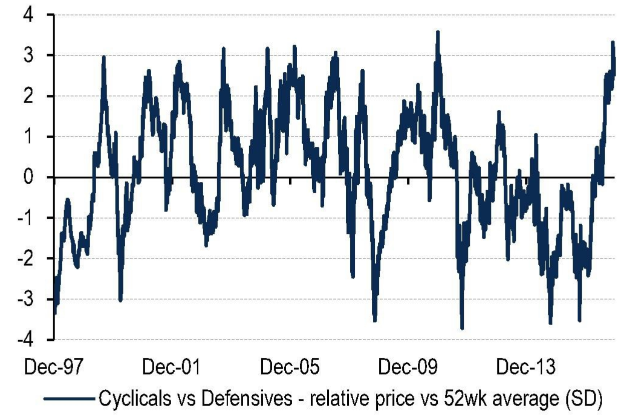
**Chart 10: At the same time as Basic Resources**



Source: Bloomberg

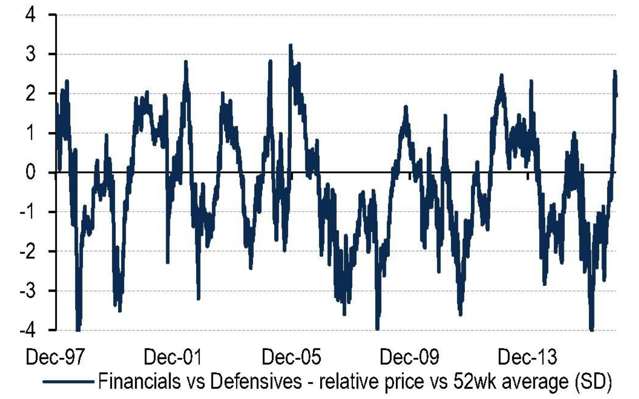
The panic in markets in early February actually presented a perfect buying opportunity for reflationary assets. Miners was a sector truly loathed by investors of all colours at the start of the year with many thinking that some of the big players might even go bust. If there is one key conclusion from all of this it is do not tie yourself to a view. We were underweight at the start of the year too and missed the lows. We recognized we were wrong and closed our underweight and while it took us a while but we eventually managed to go overweight in September. The lesson of that is that themes are great, but when the facts change strategists and investors have to change their minds.

**Chart 11: Cyclicals vs Defensives: from -3.5SD to +3.2SD in 14 months**



Source: BofA Merrill Lynch Global Research, Bloomberg

**Chart 12: Financials vs Defensives: -2.5SD to +2.5SD post Brexit**



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In fact your best guide to this year was to buy something when it has oversold, underowned and unloved, like Miners and Emerging Markets in February, Banks in July, the Nikkei the day of the US election and sell when the opposite e.g. bonds and defensive equities shortly after Brexit. Our CTI models did actually pick up a number of those events as the table below shows. It also got picked up by our standard deviation analysis. We acted on some but not all of these readings. The lesson, with the benefit of hindsight, is to pay more attention to them. Indeed, our recent decision to downgrade both Banks and Basic Resources reflected very high readings on our models.

**Table 1: Reflation rotation very stretched on our CTIs post-Trump**

| Asset | 11/11/2016 | 10/11/2016 | 09/11/2016 |
|---|---|---|---|
| EUR/GBP | -46 | -44 | -12 |
| German 10y Bonds | 66 | 61 | 24 |
| US 10y Bonds | 96 | 96 | 93 |
| Stoxx Banks | 80 | 71 | 0 |
| Stoxx Basic Resources | 92 | 93 | 92 |
| Stoxx Food & Beverages | -84 | -96 | -54 |
| Stoxx Insurance | 67 | 64 | 23 |
| Stoxx Personal & Household Goods | -34 | -75 | -7 |
| Stoxx Utilities | -92 | -94 | -19 |
| Relative CTI | | | |
| Relative Stoxx Banks | 86 | 87 | 50 |
| Relative Stoxx Basic Resources | 100 | 100 | 99 |
| Relative Stoxx Food & Beverages | -93 | -93 | -89 |
| Relative Stoxx Insurance | 92 | 91 | 76 |
| Relative Stoxx Media | -34 | -77 | -87 |
| Relative Stoxx Pers&Hhold Goods | -92 | -94 | -75 |
| Relative Stoxx Technology | -80 | -74 | -55 |
| Relative Stoxx Telecom | -91 | -92 | -28 |
| Relative Stoxx Utilities | -82 | -92 | -59 |

Source: BofA Merrill Lynch Global Research, Bloomberg

**Table 2: While opposite true immediately post-Brexit**

| Asset | 29/06/2016 | 28/06/2016 | 27/06/2016 |
|---|---|---|---|
| Relative Stoxx Autos | -95 | -39 | -9 |
| Relative Stoxx Banks | -80 | -83 | -86 |
| Relative Stoxx Basic Resources | 21 | 3 | 0 |
| Relative Stoxx Chemicals | 2 | 19 | 40 |
| Relative Stoxx Construction & Materials | -10 | -36 | -71 |
| Relative Stoxx Financial Services | -91 | -91 | -92 |
| Relative Stoxx Food & Beverages | 60 | 78 | 82 |
| Relative Stoxx Healthcare | 88 | 88 | 88 |
| Relative Stoxx Industrial Goods & Services | -47 | -35 | -44 |
| Relative Stoxx Insurance | -87 | -94 | -94 |
| Relative Stoxx Media | -6 | -13 | -35 |
| Relative Stoxx Oil & Gas | 93 | 86 | 91 |
| Relative Stoxx Personal & Household Goods | 57 | 58 | 70 |
| Relative Stoxx Retail | -63 | -81 | -75 |
| Relative Stoxx Technology | 0 | 0 | 0 |
| Relative Stoxx Telecom | 3 | 0 | -16 |
| Relative Stoxx Travel & Leisure | -98 | -100 | -100 |
| Relative Stoxx Utilities | 65 | 6 | 2 |

Source: BofA Merrill Lynch Global Research, Bloomberg

We think 2017 is another year where investors will need to be nimble. Markets have responded enthusiastically to a prospective Trump Presidency but as the above charts suggest we may well have discounted much of it. That is also supported by our fixed income and FX forecasts, which suggest much has already been priced in. In addition we have political risk starting with next weekend's Italian referendum stretching to the German elections in Autumn 2017. In the middle we have the crucial French elections. A

Marine Le Pen victory could bring into question both the future of the EU and also the euro, should the polls be close it could make the uncertainty and market moves around Brexit look like a walk in the park.

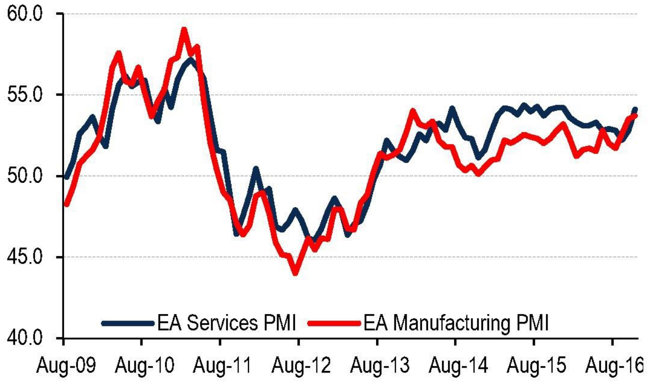
## 2017 – Reflation, Reversal, Rotation, Relief or Revolt?

2017 is likely to have a number of cross currents as themes. **Recovery and Rotation** go hand in hand. The stronger the recovery the more yields can rise the more we can see the rotation extend. Should investors become concerned that the recovery is stalling or that yields are peaking the rotation would likely stall potentially even reverse. **Reversal** refers to the ECB. Our economists are not yet convinced that the ECB will start to unravel some of its easing measures in 2017 but they do expect the debate to be a vigorous one within the ECB. For the first time Gilles Moec thinks there is a chance that the ECB will indeed choose to taper. **Relief or Revolt** relates to the French election. Will Europe follow the UK and US lead of 2016 and go down the route of populism (revolt from the voters) or will we find relief for the markets if by the end of 2017 from a Fillon/Merkel duo being in charge of the two largest economies in the Euro Area.

## Recovery – the world looks a better place going into 2017

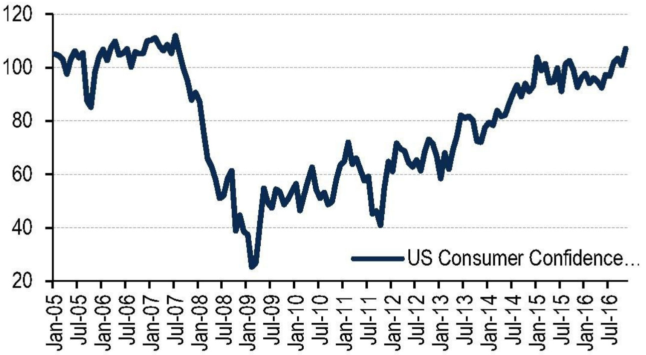
Reflation has been the big theme of the second half of the year. As we had noted in previous publications there had been something of an improvement in the global growth picture emerging even before the US election. It started with Emerging Market growth, which our GEMScycle has been showing to be accelerating for some months, but seems to have spread to other parts of the developing world. US GDP for Q3 has just printed a revised 3.2%, with a number of indicators, such as ISM's, PMI's and consumer confidence pointing to a solid Q4 to follow. That quarter is currently tracking at 3.6% according to the Atlanta Fed.

**Chart 13: Eurozone PMI's have picked up of late...**



Source: Markit

**Chart 14: US Consumer Confidence now at post-GFC highs**



Source: Bloomberg

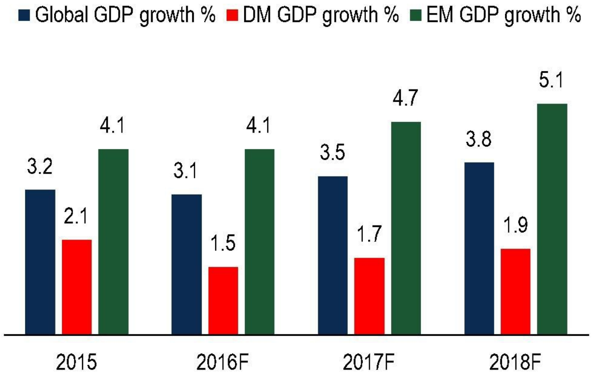
The Euro Area too is showing signs of improvement with the latest manufacturing PMIs back to their best since early 2014 with other national surveys, such as Ifo pointing in the same direction. The composite PMI is back close to the year highs too. The UK numbers continue to surprise on the upside too for the moment. Our economists are also upbeat on Japan with growth expected to accelerate next year as the fiscal stimulus kicks in.

Accordingly our economists expect growth to rise from 3% this year to 3.5% in 2017 and 3.8% in 2018. That acceleration in growth is despite a slightly slower US economy in the first half of the year as a higher USD and interest rates dampen growth before the fiscal stimulus kicks in. With growth firming and oil prices expected to be higher inflation is also expected to pick up through 2017 and 2018 to 2.8% and 3% respectively. At this stage it is worth noting that this is a modest acceleration in both growth and inflation.

The Fed is accordingly expected to proceed cautiously at least initially. In part for that reason our fixed income and FX strategists have only a modest further increase in bond yields and the USD in their forecasts for next year. They project 10Y US Treasuries rising to 2.65% and the USD to 1.02 vs the EUR. The dollar is expected to strengthen more aggressively against both the GBP and the JPY, but even so the gain in the currency overall has been frontloaded into 2016.

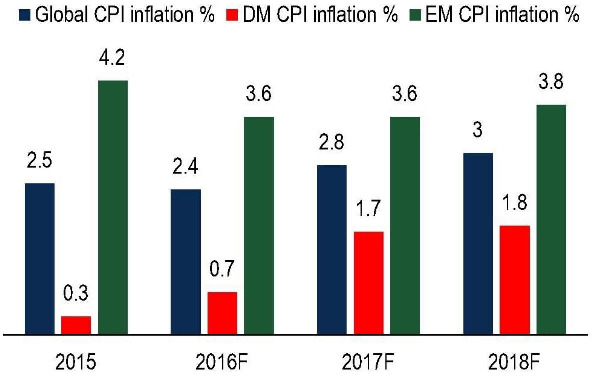
Our economists and strategists are cautious partly because the fiscal stimulus is expected to have only a modest impact on growth, at around 0.5% of GDP. That is based on the assumption that some of the proposals will get watered down and that the tax cuts have a relatively low fiscal multiplier. Our US economists think that should the fiscal stimulus be larger and more effective (for which read more infrastructure) then US growth could surprise on the upside to around 3% in 2017 and 3.5% in 2018. That in turn would mean a more aggressive Fed and in all likelihood a bigger rise in yields and the USD.

**Chart 15: BofAML sees GDP accelerating into 2018...**



Source: BofA Merrill Lynch Global Research

**Chart 16: ...with inflation picking up too**



Source: BofA Merrill Lynch Global Research

## Reversal: There is good taper and bad taper

The outcome of that would likely affect ECB behaviour too. Our central expectation is for Euro Area growth of around 1 ½% and inflation nudging only modestly higher. A much more robust global economy and a stronger USD (presumably weaker EUR) would likely put upward pressure on both of those. Indeed, in such an environment it is not impossible to think of 10Y Treasuries pushing through 3% and the USD breaking parity against the EUR.

That in turn would increase the pressure on the ECB to start to reverse its very loose monetary policy stance. Tapering would then become much more likely. It would likely push European bond yields higher too, certainly above the 65bp forecast for Bund yields at the end of 2017.

An ECB that tapers because growth and inflation are improving would not be a bad thing for markets. Frankly for some parts of the market, notably banks, anything which gets the ECB away from its current policy stance back towards normality is a positive. Indeed, the prospect of negative interest rates being reversed is the kind of thing which Alastair Ryan (our banks strategist) lies awake at night dreaming of ( see European Banks Strategy: repressed).

But and it is a big but, if the ECB chooses to taper because it is running out of options or the ability to do QE that is not a good thing. Some of the hawks on the ECB would choose to taper at the first opportunity because they never really liked the idea of QE in the first place. A tapering at next week's meeting even if it is couched in terms of doing less for longer would not be good news for equity markets.

## Rotation – more to go but it has to be more gradual

On the basis of our central forecasts for growth, inflation and rates and given the moves in the market already we think that the pace of the rotation has to moderate. After all if we are to see another 30-40 bp of yield increase in the US between now and H2 2017 having already seen more than 90bp since the summer, it has to slow.

That view combined with the readings from our models lay behind our recent downgrades of banks and miners. That is not to say that the rotation is finished. If bond yields truly have turned than some of the more expensive defensives likely have to de-rate further. The bull market in those stocks has simply lasted too long for that not to be the case.

In addition while there have been significant moves in positioning in terms of cutting underweights in areas like Banks and Basic Resources and hedge fund positioning has probably moved faster still, we do not believe that positioning has completely turned around. Looking at both the Fund Manager Survey and our own internal data we think there are still legacy underweights in cyclical areas and legacy overweights in defensives, particularly quality defensives. That argues for another leg in the rotation trade.

Nevertheless, it suggests to us that a more balanced approach is justified right now. We are still overweight oil, but little else in the cyclical space, so today we add Media. We are still underweight Food & Beverage but against that we are overweight Healthcare and Utilities.

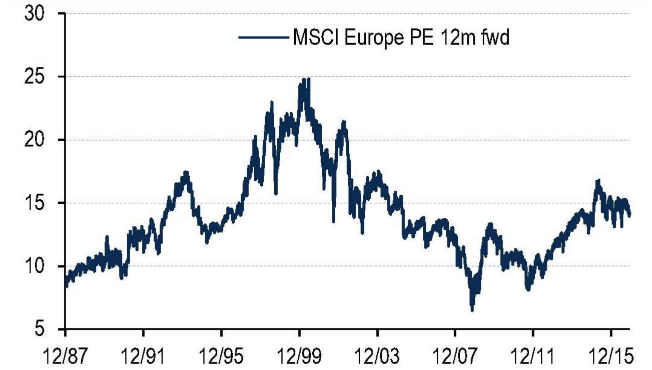
## Relief or revolt – Eurozone politics in focus in 2017

We think it likely investors will demand a higher risk premium until the French Elections in May 2017 given the likelihood that Marine Le Pen will make to the second round of voting (according to polls). A Le Pen victory could likely bring the future of the EU and the Euro into question as she has talked about France withdrawing from both. That in turn has arguably the potential to be even more of an earthquake for the world's financial markets. Our central case is that centre right President is elected in France (with Francois Fillon now the official Republican candidate) and Merkel is returned at the head of a coalition government in Germany now that she has indicated she will stand for re-election. Until the French vote though we suspect investors will be cautious about European markets. Were this to be the case then we think there may well be room for a significant relief rally in European assets. We have more on this, including a calendar, in our section on Eurozone politics.

# Decent valuations but not compelling

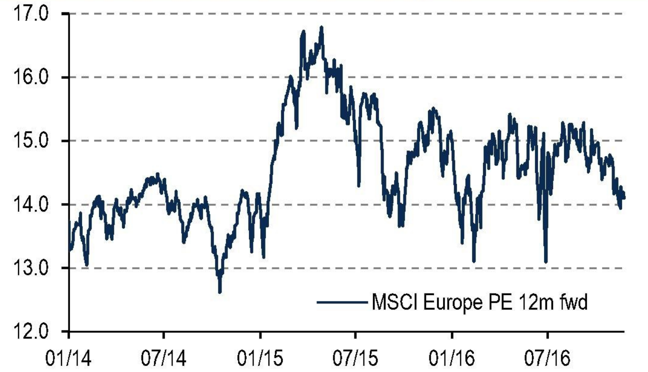
Headline PE multiples do not screen as particularly cheap for European equities but are also not excessively expensive. In fact the current forward PE on MSCI Europe at 14.1x is right in-line with the average since 1987. The most recent high in PE multiples was over 16.5x at the April 2015 market highs. However, more recently the market has traded in a fairly tight range around 14-15.5x PE, with some fleeting falls to 13x around the market lows in February 2016 and at the time of the Brexit referendum. At the current multiple we see valuations as quite reasonable therefore. Our index target assumes some multiple expansion back to 15x, which we think is quite achievable under our base case assumptions.

Chart 17: MSCI Europe forward PE in-line with 30-year average at 14.1x...



Source: BofA Merrill Lynch Global Research, Datastream, IBES

Chart 18: ...but at lower end of 13-15.5x PE range of last 15 months

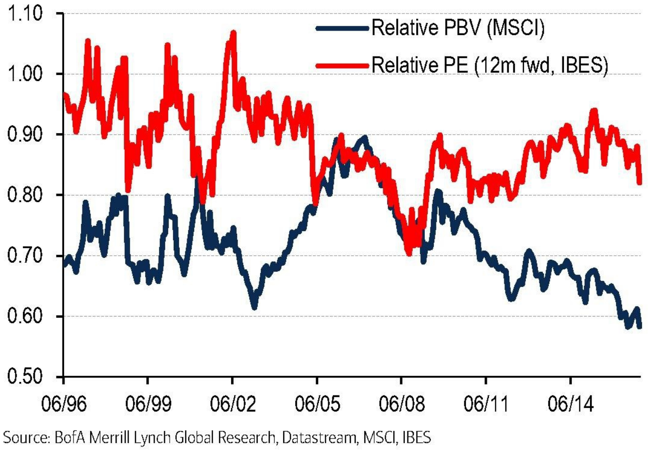


Source: BofA Merrill Lynch Global Research, Datastream, IBES

**Relative attractiveness of Europe depends on EPS recovery in medium-term.** Moving to relative valuations, European equities screen somewhat cheap vs their DM peers. However, the medium-term bull case for Europe is far more a function of potential earnings and ROE recovery rather than significant undervaluation. Europe's valuation discount to the US is at multi decade wides on PBV (over 40%) but that in turn reflects Europe's significant underperformance on EPS growth and ROE. Trailing ROE for MSCI Europe is just 8% (at historical trough levels). That is nearly 5pp below MSCI USA compared to a 3pp gap on average historically and close to the widest spreads since the mid-1990s.

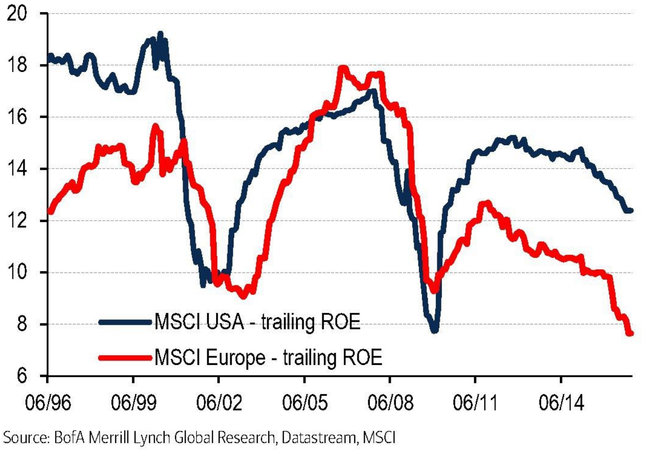
**Europe vs US relative PE 7% below average.** Based on PE, Europe nevertheless trades cheap relative to the US. The PE discount at 18% is 7% wider than the 20 year average and relative PE is at the lowest level since 2012. So while a sustained reversal in the underperformance of Europe versus the US would over time have to be driven by a recovery in relative profitability we do see current valuations reflecting a discount perhaps for political reasons (Brexit, upcoming elections).

Chart 19: Europe vs US: modest PE discount but cheap on rel. PBV



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

Chart 20: European earnings and profitability significantly lag the US



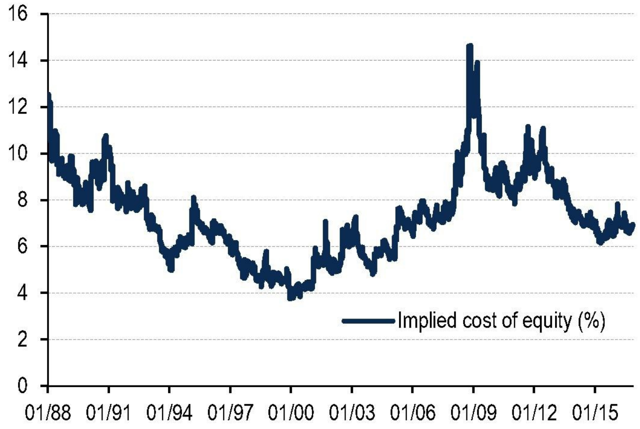
Source: BofA Merrill Lynch Global Research, Datastream, MSCI

The other metric that illustrates the valuation overhang in Europe is the risk premium. Our model calculates an implied cost of equity (CoE) for Europe as 6.8%, a little below the average since 1988 (7.2%) and last 10 years (8.4%). The model assumes the cost of equity is simply the cyclically adjusted earnings yield (calculated using a 5 year centred average EPS). We then compare this number to the German bund yield to estimate the implied equity risk premium (ERP).

Europe's ERP on our model is 6.9% – down from the post-Brexit highs at 7.5% but still at a 70bp premium to the 3 and 5 year average for the ERP. That in turn implies a ~11% valuation haircut relative to 5-year average levels.

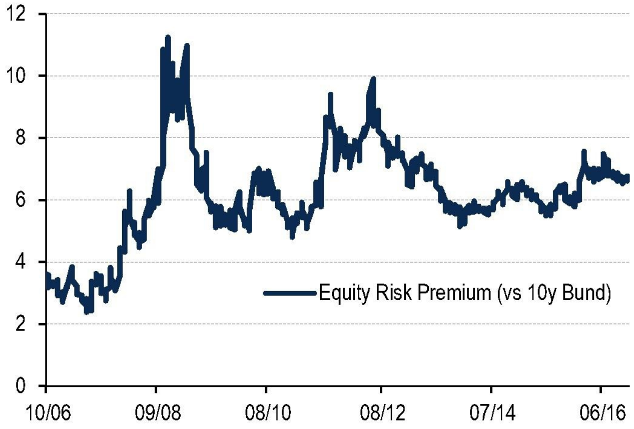
These numbers also show that the recent rise in bond yields is modest relative to where cost of equity or ERP sits. We're quite far away from the level that bond yields would make ERP look expensive. Even with bund yields at 75bp (ie +50bp from here) it would only shift the ERP back to average levels (all else equal). Bond yields need to rise 150-200bp to get to the expensive end of the range of last 6 years on ERP.

**Chart 21: Implied cost of equity (CoE) on our model in Europe is 6.9%, a little below the average since 1988 (7.2%) and last 10 years (8.4%).**



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

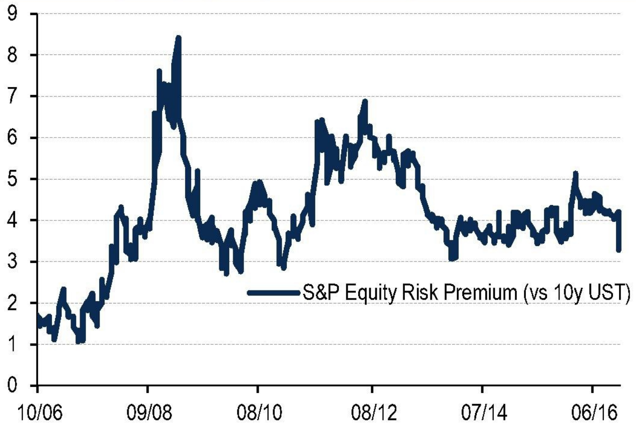
**Chart 22: Implied equity risk premium remains elevated: 6.7% ERP to bund yields vs 10-year average of 6.2% and recent high of 7.3%.**



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

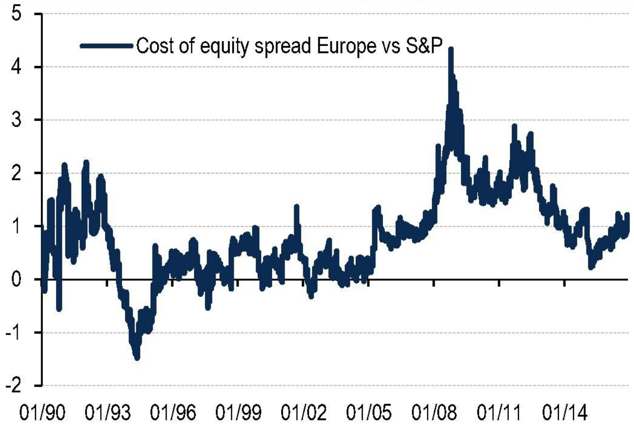
**Europe cost of equity higher than long-run average compared to US.** Europe also compares favourably on a relative basis against the US equity market in this framework. The implied CoE for the S&P500 on an equivalent model is 5.64%, which is now at an 11-year low and 130bp below the 10-year average. The implied ERP on that basis at 3.3% is also below average and not far off the lows from the past 10 years. Admittedly Europe did get significantly cheaper relative to the US during the GFC and the sovereign debt crisis. The cost of equity premium for MSCI Europe vs the S&P is 1.21%. That is a premium to the 30-year average of 0.72%. However it is below the average of the past 10 years – the spread peaked at over 4% in 2008 and at 2.7% in 2011 / 2012.

**Chart 23: Implied equity risk premium near 9-year lows in the US**



Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

**Chart 24: Europe vs US implied cost of equity spread**

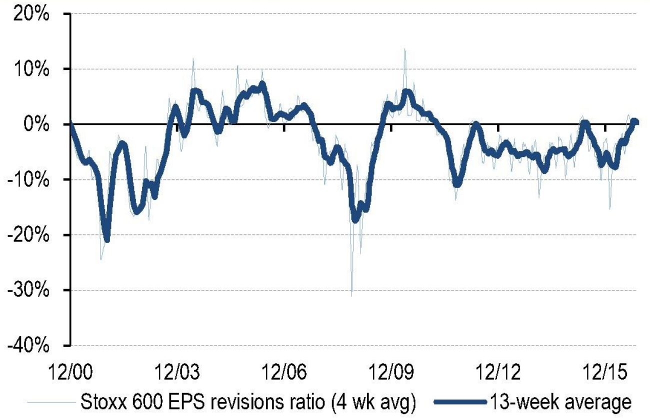


Source: BofA Merrill Lynch Global Research, Datastream, MSCI, IBES

# Earnings – a return to positive EPS growth in 2017

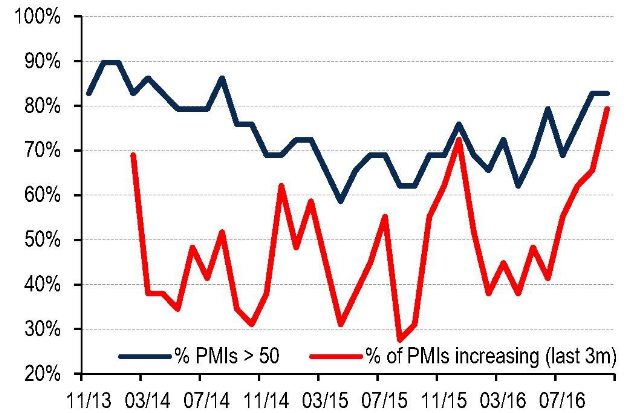
**7% EPS growth in 2017 as global growth improves and Resources EPS recovers**
We think the earnings backdrop will be supportive in 2017 with a return to positive EPS growth in Europe for the first time since 2014 and with downside to consensus forecasts for the year ahead that are well below average. Our base case assumes +7% EPS growth in 2017 and 2018. With EPS broadly stagnant over the last 6 years, investors might justifiably ask what is different this time. We see several reasons to think mid to high single digit EPS growth is achievable next year.

**Chart 25: Earnings revisions are currently modestly positive**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

**Chart 26: Broad based recovery in global growth (based on 29 PMIs)**



Source: BofA Merrill Lynch Global Research, Markit, Bloomberg

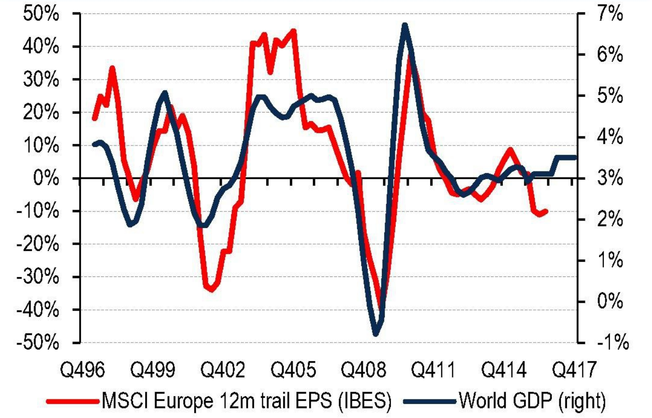
**Return to positive EPS growth feasible with global GDP at 3.5%...** First, global growth is accelerating and on our economists' base case forecasts global GDP growth will be 3.5%, the first materially above trend growth year since 2010. That is significant for European earnings given a reasonably tight relationship to global GDP growth. 3% represents the tipping point around which earnings growth tends to turn positive according to our regression model. At the BofAML forecast of 3.5% global GDP growth, 7% EPS growth is implied as likely by the same model.

**...as leading indicators point to a synchronized global recovery.** What gives us confidence in this putative earnings recovery is the more synchronized nature of the current recovery. All major regions of the world are showing momentum in growth indicators for the first time in several years. One measure of the broad nature of the improvement is manufacturing PMI surveys. Of 29 Markit PMIs 83% are currently above 50, highest since August 2014. More importantly, 79% have improved over the last 3 months – higher than at any point in the last three years.

**Bull case of global GDP towards 4% would signal double digit EPS growth.** To see a more bullish outcome for EPS we would need to see global GDP accelerating further. Based on our regression model, double digit EPS growth historically was consistent with global GDP growth above 3.8%. Under our bull case scenario for 2017, with say 4.0% global GDP growth, consensus EPS growth forecasts for +14% in Europe would become realistic.

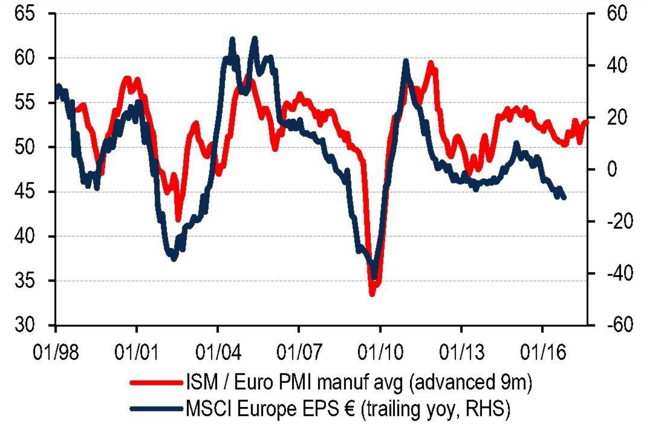
**PMIs beyond 55 would suggest upside to base case.** Significant further gains in leading indicators would be a signal that earnings growth could exceed our base case. Over the longer term EPS growth has followed manufacturing PMI surveys with a 9-month lag approximately (using an average of US and Eurozone). Historically readings above 55 were consistent with mid-teens EPS growth. The relationship has weakened in recent years as low interest rates and weaker commodity prices weighed on earnings in Financials and Resources. Nevertheless, in the last year of decent EPS growth in Europe in 2014 the PMIs peaked at 54 so we would look for upside to our base case EPS forecast should PMIs improve to the mid-50s level or beyond.

**Chart 27: 3% Global GDP growth the tipping point for EPS**
Europe trailing EPS growth vs World GDP



Source: BofA Merrill Lynch Global Research, Datastream, IBES

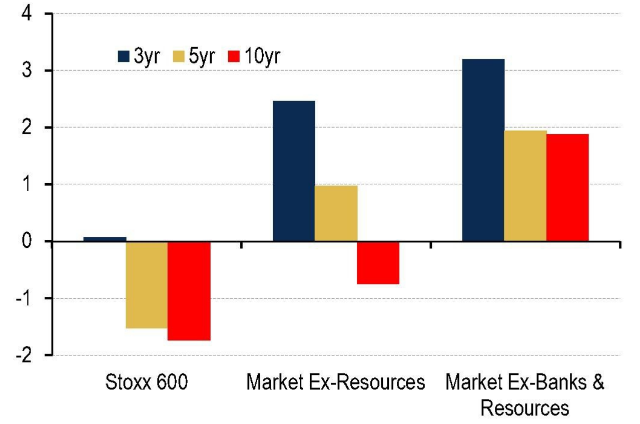
**Chart 28: Synchronised rise in leading indicators globally augurs well for earnings recovery – especially if PMIs kick on to or above mid-50s**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

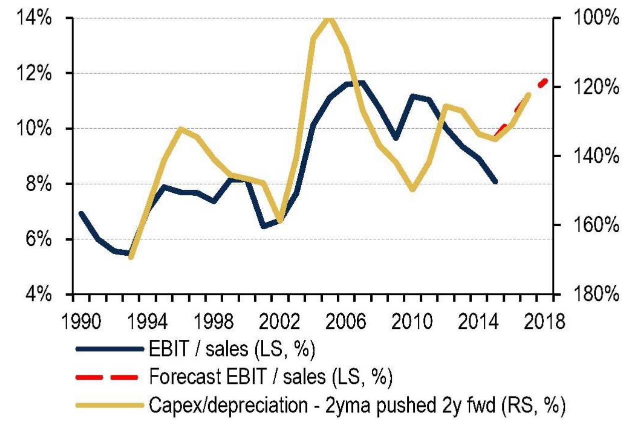
**Removal of the 3pp p.a. drag from Resources supports EPS outlook.** Second, the Resources sectors in 2017 will likely provide a (strongly) positive contribution to market EPS, in turn reversing what has been the biggest headwind for several years. Over the last 3-5 years the Resources sectors provided a 2.5 percentage point drag on annualized market EPS growth. In 2016 Banks have been the other big drag on market earnings. While structural headwinds to profitability mean the contribution of Banks remains open to debate, consensus forecasts nevertheless imply a strong recovery in 2017 (driven in part by one-offs reversing). The important point is that the market ex-Banks and Resources has delivered modest but positive EPS growth – estimated at +5.5% for 2016. Hence, removing the drag from Oil and Mining makes high single digit growth achievable in our view.

**Chart 29: Resources a 2.5pp drag on market EPS growth in recent years**
Annualized EPS growth



Source: BofA Merrill Lynch Global Research, Datastream, IBES

**Chart 30: Capex discipline supportive to margin outlook**
Europe Ex-Financials: EBIT margins vs capex/depreciation

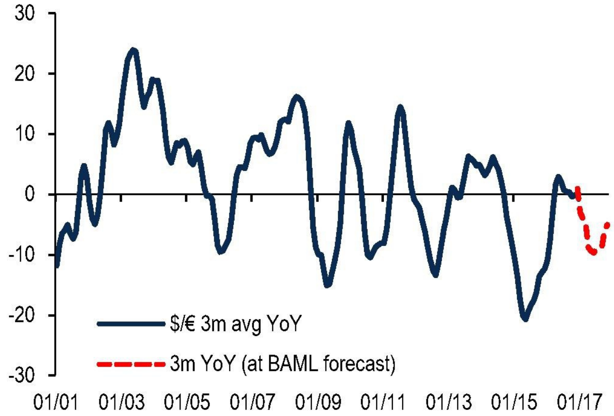


Source: BofA Merrill Lynch Global Research, Factset

**Margin upside, capex discipline and FX tailwind provide additional support.** Third, profit margins in Europe are not elevated: in the bottom third of the historical range (since 2004) at the EBITDA level and about average at the net level. With some acceleration in the top-line as global growth and inflation pick up, there is scope for margins to improve. In addition, several years of relative capex discipline provide potential support for margin improvement over the next 1-2 years in corporate Europe. Over the longer term, we find that operating margins have tended to improve with a lag of one to two years, following a period of declining capex ratios. That is encouraging for the margin outlook into 2017-18, given Capex to depreciation for the Market Ex-Financials in 2015 hit its lowest level since 2003 and had been declining for 3-years. Finally, we note that FX may provide a modest tailwind to European EPS again in 2017. Our FX team's $/€ forecasts trough at $1.02 in mid-2017, implying a rate of depreciation for the euro that peaks at 10%.

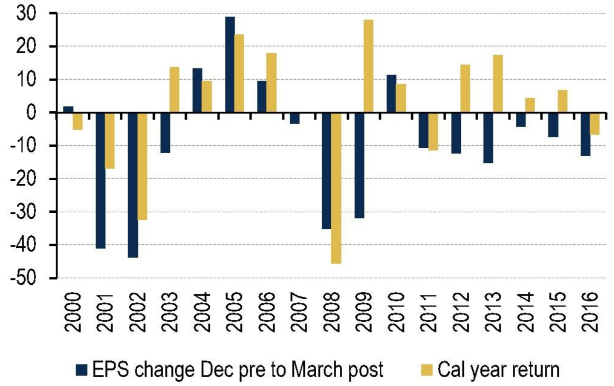
**Chart 31: Stronger dollar would be a tailwind for EPS**

YoY change in $/€ actual and implied by BofAML FX forecasts



Source: BofA Merrill Lynch Global Research, Datastream

**Chart 32: Change in consensus EPS (%) vs annual market returns: downgrades are the norm and average -10%**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

### Consensus downgrades in our base case – but less than average

Our base case 7% EPS growth assumption is below the current bottom up consensus of +14%. Hence, for now we don't see the prospect of a sustained upgrade cycle. Consensus downgrades are the norm however. 2010 was the last year that consensus forecasts started the year too low. In fact, consensus was too high in 12 of the last 17 years. Moreover, our estimate of 7% EPS growth in 2017 implies less downgrades than usual (10% is the average). It's also worth noting that over the past 17 years annual consensus downgrades of less than 10% have never been accompanied by negative equity returns for the same calendar year.

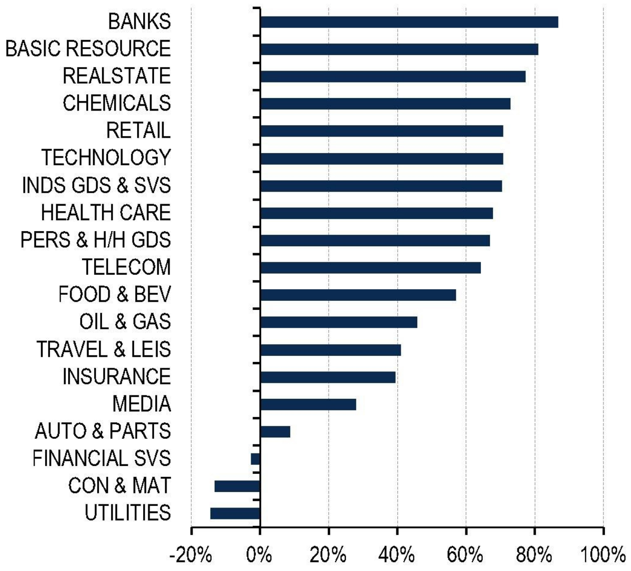
## Sector EPS growth prospects

Correlation analysis of sector earnings growth against global GDP suggests that Banks are the sector that may be most sensitive to improvements in global economy. Interest rate developments are likely the key to earnings but they in turn should reflect the nominal growth environment. Real economic growth would also have some effect on credit volumes and collateral valuations though, reinforcing the link from the economy to Bank earnings.

Cyclicals unsurprisingly dominate the other sectors with EPS growth geared to global growth. Basic Resources, Chemicals, Tech and Industrials all exhibit a correlation above 70%. Some other cyclicals including Autos and Construction have been had much less correlated EPS growth to global GDP in recent years. In part that reflects that significant earnings volatility in the period analysed. What's notable for both groups is that expectations already look high for both sectors. Consensus estimates also factor in a rebound in Resources sector EPS growth – but both these sectors have seen the largest earnings declines over the past five years. Forecasts look more restrained in Industrials, Chemicals, Tech – implying mid to high single digit growth in the coming three years.

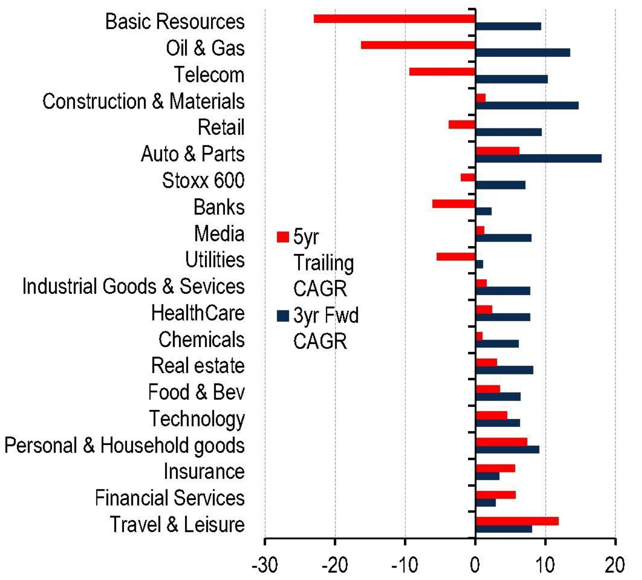
Among Defensives expectations look highest in Telecoms – suggesting 10% average EPS growth in 2016-18 despite the weak trend rate for sector earnings in recent years. Consensus forecasts imply a more modest improvement for Utilities – with just 1% EPS CAGR for 2016-18. Staples and Healthcare are forecast to have high single digit EPS growth in the coming 3 years, implying 2-3pp improvements in the annual growth rate relative the trailing 5-year average for Staples and +6pp for Healthcare.

**Chart 33: Correlation of sector EPS to global GDP since 2010**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

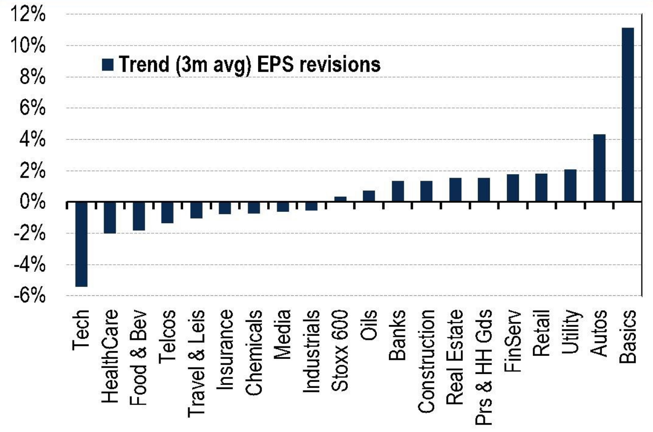
**Chart 34: Trailing vs forward EPS CAGR – ranked by difference**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

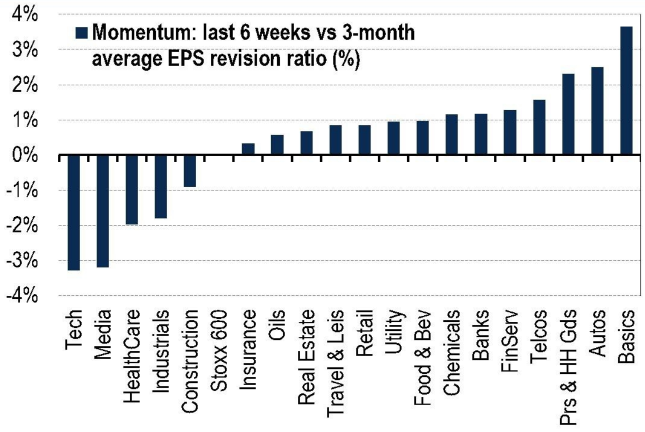
**Earnings revisions trends.** Basic Resources show strongest revisions trends and revisions are still improving relative to trend, in light of the strong upside recently for many metals prices. Autos revisions are next strongest and also show some positive momentum. More broadly most sectors are not showing an improvement in the trend on earnings revisions. Revisions are weakest in Tech having deteriorated more than other sectors over the past six weeks. The improvement in Financials revisions continues and Banks and Financial Services are now in positive territory.

**Chart 35: 3-month average EPS revisions ratios (ERR) by sector**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

**Chart 36: Revisions improving in most sectors (ERR 6wk avg vs 3m avg)**



Source: BofA Merrill Lynch Global Research, Datastream, IBES

# Eurozone political calendar 2017

**4 December: Italian constitutional referendum**

Our base case is a close "No" vote where Renzi stays and no snap election, given current polls and the outstanding electoral reform court case. BTPs and the banks recaps remain a tail risks for the Italian economy, although the ECB extending QE should help. A big "No" vote would boost Five Star and undermine Renzi into 2018 elections, in our view.

**4 December: Austrian presidential election**

Polls by public broadcaster ORF show the result as very close. Norbert Hofer is standing on an anti-immigrant platform against the moderate former Green leader Alexander Van der Bellen in a rerun of the May vote. The election of Freedom party candidate Norbert Hofer would make Austria the first nation to elect a head of state running on a far right platform since the EU began.

**22/ 29 Jan: French Socialist Party presidential nominee elections**

If President François Hollande decides to run for re-election as the Socialist Party candidate (decision expected Dec 10th) he could be challenged by former Prime Minister Manuel Valls and Economy Minister Arnaud Montebourg. Current second round polls for any combination of these candidates suggest likely Socialist nominee too close to call.

**15 March 2017: Dutch elections**

Prime Minister Mark Rutte currently leads a "purple" coalition with the Dutch Labour party as main second party. But the latest polls suggest both parties could win fewer seats than they have now in 2017. That could make it more challenging to build a government given the need to secure at least 76/150 seats. In terms of who could lead that coalition, polls have Rutte's People's Party neck and neck with the anti-immigrant Freedom party led by populist Geert Wilders. Wilders has called for the Netherlands to leave the EU indicated he would call a referendum if elected. A Wilder-Rutte coalition also hasn't been ruled out according to press reports.

**23 April: French first round presidential elections**

The first round of voting for the next French president will be on 23 April. First round polling suggests the leader of the anti-EU Front National Marine Le Pen is expected to progress to the decisive runoff. At present Republican Candidate Francois Fillon is also expected to make it through.

**7 May 2017: French second round presidential elections**

Current polls, albeit their validity has been called into question by events in 2016, show Fillon securing 65-70% of the vote vs Le Pen in a runoff (see chart below). We note that when her father, Jean-Marie Le Pen, faced Jacques Chirac in the 2002 Presidential elections the FN candidate only received 18% of the vote. Nevertheless, we see a potential Le Pen win as the biggest political risk event for European (and possibly global) equity markets in 2017.

**By 22 October 2017: German Federal elections**

Current Chancellor Angela Merkel has announced that she intends to stand for re-election. Current polls have Merkel's CDU ahead followed by SDP with the euro-sceptic Alternative für Deutschland, Greens and Die Linke competing for third spot. While it may be necessary for Merkel to maintain the grand coalition with the SDP, our central case is that we see a continuation of the current German administration and that German elections carry less risk than the earlier French presidential elections.

# Politics – populism in the Eurozone?

Few predicted that the UK would vote to leave the EU and Donald Trump would win the US presidential election in 2016, least of all pollsters (and many in markets). As Michael Hartnett argues, the rise of populism can be linked to what he refers to as Peak Inequality and Peak Globalisation. Trump and the Brexit campaign tapped into deep apathy with the socio-economic order that for them remains unreformed post-GFC. That's why the poster boy for this dislocation is often the blue collar voter whose standards of living have not been rising in the increasingly globalised world. The crucial question for investors as we enter a busy year for European politics (see table opposite) is whether the populism train will gather pace or terminate at the Eurozone.

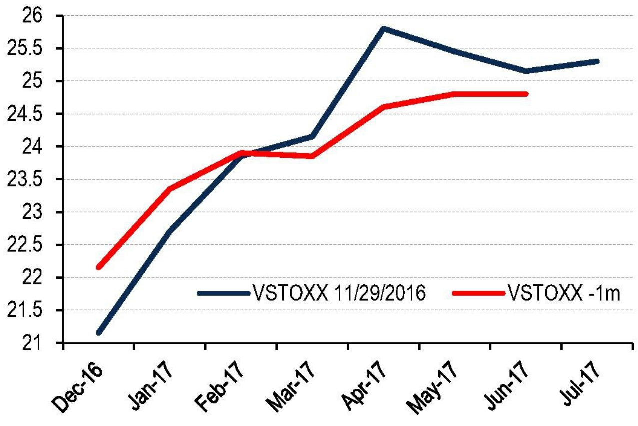
### Italy risks elevated, but risks two way and banks the bigger issue

Although Italy goes to the polls this year, it is worthwhile starting with this Sunday's vote. In Strategy Insights: Italy risks elevated we argue that our base case is a narrow rejection of the proposed constitutional reform, which is another vote against governing party on Dec 4. But unlike UK/ US, this would be expected and Renzi is likely to stay on so the outcome should not carry the same surprise or uncertainty factor for markets. The tail risk are also two way. A large "No" vote could perceived as supportive of the 5 star movement but a "Yes" vote would be bullish Italy and risk assets more generally. The bigger issue is likely recapitalisation of the Italian banks. This remains a significant tail risk for banks and was part of why we downgraded the sector.

### A Le Pen victory could prove the biggest risk to European markets in 2017

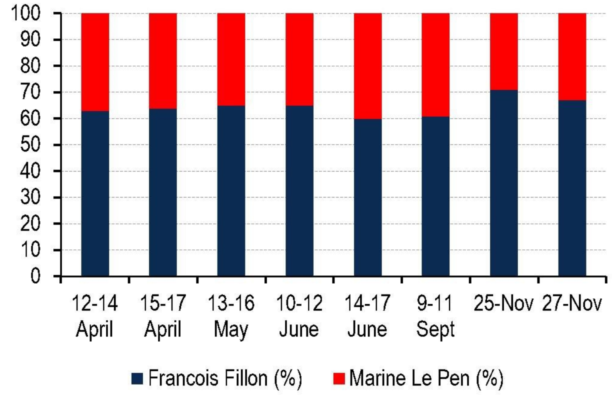
Probably the most natural fit for the populism theme in 2017 is the French presidential election. Although polls have been somewhat discredited by events this year they remain useful as an indication of where the public mood lies. With that caveat in mind, current voting intentions suggests Front National leader Marine Le Pen will receive enough votes to progress to the second round and is likely to be joined by Republican candidate Francois Fillon. Although when Fillon and Le Pen are polled together in a second round runoff Fillon is ahead by ~65%-35%, Le Pen is seen as capable of appealing to the same anti-establishment / blue collar voters as Trump/ Brexit.

**Chart 37: Vol already picking up around the French primaries next year**



Source: Bloomberg

**Chart 38: Yet Fillon still well ahead of Le Pen in polls of a potential run-off**



Source: Ifop (12-14 Apr, 14-17 Jun), BVA (15-17 Apr, 13-16 Mar, 10-12 Jun, 9-11 Sept), Odoxa (25 Nov), Harris Interactive (27 Nov). Note: all 2016.

Investors' biggest concerns are that we could see the same narrowing of polls in favour of Le Pen into the election months as we saw in the UK/US. We think this could mean French political risk becomes a major overhang for European equities in H1 2017. The worry is that a Le Pen Presidency could bring the future of the EU and the Euro into question as she has talked about France withdrawing from both and is especially an issue because of the winner takes it all nature of French presidential elections. As James

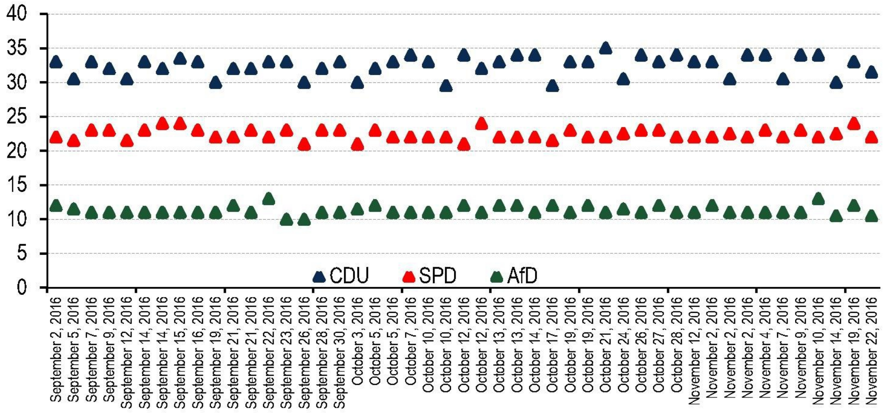
Barty argued in The Trump Inflection, Le Pen's victory has the potential to be even more of an earthquake for the world's financial markets. Indeed, we have already seen a 1vol move in April 2017 V2X futures since last month.

So our central case is French political risk caps markets to the upside for Q1 and most of Q2 but that the centre right candidate Fillon is elected President. As Gilles Moec argues, his pro-market reformist agenda could unlock French growth and we think it could prove a significant positive catalyst for European equities more broadly if the political risk premium is priced out against a solid European and global growth backdrop.

### More of the same expected in Germany

We think Germany carries less political risk than the French election now that Merkel has formally announced she will run again to be Chancellor. As a result, our central case is that Merkel will continue to head a coalition government. We could see the populist AfD win more votes than in 2012, but polls show a clear and decisive margin in favour of the CDU and the existing coalition with the SDP suggests that an extension of their partnership is the most likely eventuality.

**Chart 39: German polls show a consistent lead for Merkel's CDU party**



Source: Allensbach (15-Sept, 13-Oct), Emnid (7-Sept, 14-Sept, 21-Sept, 28-Sept, 5-Oct, 12-Oct, 19-Oct, 26-Oct, 2-Nov, 9-Nov, 19-Nov), Forsa (2-Sept, 9-Sept, 16-Sept, 23-Sept, 30-Sept, 7-Oct, 14-Oct, 21-Oct, 28-Oct, 4-Nov), Forschungsgruppe Wahlen (22-Sept, 13-Oct, 27-Oct, 10-Nov), GMS (14-Sept, 12-Oct, 12-Nov), Infratest dimap (21-Sept, 5-Oct, 19-Oct, 2-Nov), INSA (5-Sept, 12-Sept, 19-Sept, 26-Sept, 3-Oct, 10-Oct, 17-Oct, 24-Oct, 2-Nov, 7-Nov, 14-Nov, 22-Nov), Ipsos (10-Oct)

Brexit was the big political topic for Europe going into 2016. Going forward we see it as an ongoing issue but mostly for the UK (see UK – Waiting for Brexit for more details).

## Rising bond yields & equities

With the market focus on the sharp bond market sell-off it is worth re-visiting the links between equities and bonds as many investors question whether the effect on equities will become negative the more yields rise. An environment of rising bond yields is not inherently problematic. Over time correlations between bond yields and equities have varied and on average have been very weak (if slightly positive) over the last twenty years. Typically when rising yields reflect improving growth conditions and or rising risk appetite equities have naturally benefitted. Certainly since 2010 for the most part higher yields were accompanied by higher equity prices.

**Track record mixed for stocks following bond yield spike.** Does an exceptionally sharp back up in bond yields represent a downside risk for equities? The historical evidence is inconclusive. We looked at equity market returns in the months following 2.5SD moves in German bond yields (based on a comparison of rolling 3-month yield changes to the 52-week average). The recent spike in German yields peaked at +2.9SD on the same basis. We found 11 comparable episodes since 1980. Equity market returns subsequent to the peak rate of change in bunds were moderately positive – a median